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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CONGRATULATORY SCROLLS
ORGANIZATION

WEDNESDAY, JANUARY 11, 1989

This says "anniversaries," because my staff person's first language is French, en français "anniversaire" is like "birthday" in English, but you can put "birthdays" in there. Before 1988, it was framed at the 90th birthday and at the 100th.

The proposal in May was a folder at 80, a frame at 90 and then a folder, in fact, at 100. What we are suggesting now is that we use the folder at 80 and after that, at 10-year junctures, at 90 or 100 or anything in between, if it is the first time, it would be framed. From then on, it would be five-year junctures which would be framed. So, that would all be framed from there on. The summary follows, based on each of the categories that are there.

I think the Premier's one that goes out in terms of special messages is the one that we are talking about in terms of framing, which either can be hung or can stand on its own, if so desired. On the folders, which we suggested be this and at your suggestion would open this way, the question was whether these could be hung up.

I am told what we have been able to work out with the manufacturers is that if someone did not want to place one of these on his vanity, desk, table or what have you, indeed it could be folded this way. There would be a ribbon on both sides and in fact it could be hung on the wall if someone chose to do that. We think we have addressed that issue. At the same time we have taken into consideration that while it would be costly, to the tune of about \$110,000 to \$120,000 with this expanded program, it should cut some of the costs in least in terms of some of the mailing because the other original one was an extremely bulky and heavy item. We might save a little bit on that. What it means is that if we went with this program, I have to put an additional \$120,000 in the estimates for this, which I am prepared to do.

Mr. Chairman: Mr. Patten, I think that is a marked improvement over what we had before. I might just say that on one occasion there was a 70th anniversary, so I presume that when you are talking about today's proposal as far as framing is concerned, that would be, as you mentioned, five-year intervals.

Hon. Mr. Patten: Yes, if someone had 95 years of marriage, then we would be delighted to send them a scroll.

Mr. Chairman: We would even send the Premier then.

Mr. Morin: I just wanted to congratulate Mr. Patten and his staff for giving us what we wanted. I think it is excellent. Thank you very much.

Mr. Breaugh: I think the basic problem has been resolved. I guess what is a little difficult to sort out here is that from our point of view we get these and offer them to the public on a regular basis. So it is kind of difficult for us sometimes to see them the way the recipients see them. For them, it is the one occasion in a lifetime when they get some kind of notice from a government that they did something that was worth noting. I am rather pleased that what you are proposing today is something I would be very happy to present to anybody.

I must say I did another scroll last week and I felt a little reluctant to hand them what I had. It is not that it was something to be ashamed of. It is just that they were looking for something a little special and it fell short of the mark. What you are proposing today is the kind of thing that we should be doing. I think it is a job well done.

Mr. Wiseman: Being new to the committee, I just wondered if I could get away from the scrolls for a second and ask what happens when a request comes in now for a particular scroll. Was it not the practice in the past that the member for the area got to present it and requests did not come through a Liberal member in an adjoining riding, but rather through the member who represented that riding? When I was the Minister of Government Services I always thought that was the way it was handled. I found in my own riding—

Hon. Mr. Patten: In your case, I go to your riding and give them out.

Mr. Wiseman: I found in my own case that sometimes they are coming from the member for Renfrew North (Mr. Conway), the House leader, through some of his friends in the riding. It is kind of embarrassing, in a way, to get there and find that the scroll has not arrived and I am at the last minute asked to present it and there is no scroll. If I had been looking after it from day one, I would have made sure that the scroll was there. On the last two occasions that this has happened, the scrolls came along after the event but the request was made by Sean both times.

Hon. Mr. Patten: In good part it depends on the source and who initiated the request, etc., but I am going to ask Ida if she would explain the procedures and the entry points at which these things happen and how that works and relay it to the members.

Mrs. Figliano: I am new at official documents, but I do know that the girls do check out the requests. They check out the ridings and the scrolls are sent to the member who looks after that particular riding, regardless of who made the request, unless it is made directly from family and it does not want the scroll to go through the member.

Mr. Wiseman: In the two cases I cited, and there may be more, that was not the case because the chap for whom I was attending the ceremony was a personal friend. But the particular family in the riding had notified Sean and it did not come along.

I thought at different times I have had that happen when we had another sitting member in Frontenac and the riding almost abutted. They seemed to have a closer relationship with me in Lanark than they did in Frontenac just because of the closeness of the line in the shops this way. We always sent it at that time to Mr. McEwen who presented it or somebody presented it on his behalf. I just wondered, not knowing I was going to be at this committee earlier today, if I could find out if the rules changed and if this could be investigated to see that it does not happen again because it has been happening fairly frequently.

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Mrs. Beaumont: Perhaps, Mr. Wiseman, after the meeting you could get the names of the individuals and we can check up on what happened.

Mr. Chairman: I have had things of this nature, maybe not exactly like yours, Mr. Wiseman, but where people have moved, for instance, because they are senior citizens. They have lived in Waterloo many years and all of a sudden they have gone to a senior citizen residence in Kitchener. Certainly because they have been identified with Waterloo for so many years, they want to get the plaque from there.

What happens is that we let the other member know that we are going to

present the plaque and so forth. I am sure it happens vice versa, too, that there are people who move into my riding when they are over 90 or something and they have lived in Kitchener all their lives. There is just that understanding. So maybe there has just been a problem there that can easily be resolved.

Mr. Wiseman: That is not the same, though. I do not know how to mention it to them, because I do not want it to go on the record as it might embarrass the people. It ended up that I did get the scroll for one, but the other one I was informed had already been delivered by, I believe, a colleague.

Mr. Campbell: I guess I am one of those members, being from northern Ontario, who gets a number of members involved in scrolls because the kids live away from the parents or vice versa. We had one former constituent from Ottawa whose parents had moved down to Hamilton, so I let Ms. Collins's office know and whoever else was involved in the thing, that this was going on and copied all the members. I think this co-operation probably works very well and different things happen.

My comments basically are that I am very pleased to see that there has been some very strong attempt to take note of the previous meeting when there are all kinds of comments on the service. I am pleased to see that the response has been so positive from your ministry to try to address the concerns of the committee and other members of the Legislature who have made their comments known to us, knowing that we sat on the committee. I think that from all parties, this is a service that is important. As my colleague Mr. Breugh said, it is one time that they really have a chance to shine a bit for a milestone in their lives. I think that it is very important that we honour it in a very special way.

I must commend you on all of your working together to make sure that these concerns were addressed and that all of the comments that we made were taken very seriously by your ministry. You were able to come back to us with such a very full plan that I think will please virtually everybody in this whole process.

Some of us find a different emphasis on this job. There are others who have a different emphasis depending on where we come from, what is expected and so on. I am very pleased with the time that has been spent on this. I think you have come back with a very sound plan, well planned out and well thought out. I congratulate you on that.

Mr. Breugh: I just have one other little thing I would like you to take into consideration. There are a number of occasions during the year when it would be appropriate for me as a local member to present something from the province recognizing a local event. Each time this happens, we kind of go around to the local businesses and try to find someone who could either do a plaque, a scroll or something like that. There are not very many in many communities who do that kind of work. It is a bit of a task sometimes to do that.

I wonder if you would take it under consideration to provide a service like that to members. These are sometimes rather unusual events of ball tournaments or somebody opening up something. I do not think there would be a problem. For example, we do have accounts in the constituency office where we can be charged for such things. That would not be a problem.

I would not really expect the ministry to finance these things, but it would certainly be a convenience to members if there were an organization that had a special event on or something that should be, in the local member's eye, noted by the government of Ontario. There might be some service where you could charge to the constituency office or to the members' office here but you would actually provide something that would be suitable.

The problem basically is getting something suitable. Not every municipality has people who do scrolls or plaques. I just wonder if you might take that into consideration, since you have the basic material for the framing available, and the paper, and obviously the technology to put the stuff together. It would be helpful if that were made available to members.

Hon. Mr. Patten: We will look at that and get a response for you.

Mrs. Beaumont: The minister was just responding that these large special events scrolls are requested on occasion for the kinds of events you are talking about and are available.

Mr. Breaugh: There are just some events that are—I think, as we always do, we have things that fit and things that do not fit. What I am saying is just that if there were some way to make that discretionary on the local members, so that you could have something designed—I do not expect the government of Ontario to agree with my definition that the lob-ball tournament is important, but it may be for me or there may be people in the community who have done a lot of work on that and I would think it appropriate to do that. I would be happy to have that charged to my account; it is just the problem of getting someone who can actually do that kind of scrollwork.

Mrs. Beaumont: Rather than a scroll, let me make a plug for the provincial souvenirs that the ministry makes available to members.

Mr. Breaugh: I knew they would be selling something.

Mr. Wiseman: Mine is along the lines of Mr. Breaugh's question. Over the years, people may have been donating their time to a special charity—they do not have to hit 40 years or 30 years for the member to be able to do that—or have worked with the children in the area with hockey teams or something, and may have put in 10 or 20 years around the hockey rink coaching little teams or something like that. They are recognized at some of these events that they have at the end of the year for maybe 20 or 25 years of service that way.

I do not know where you draw the line, but there are other goodwill things in the community for which I think, from time to time, it would be good if we could present something on behalf of the province, because volunteerism today is getting less and less. People do not want to volunteer their time. They do not seem to come forward as freely as they did.

When you get somebody who has done this and has done it in a worthwhile way and is being recognized by the town or the community, then I think the province should recognize that too with some sort of a scroll or something.

I realize it adds some money to your budget, but when we go to these—I do not know whether other members feel the same—you feel kind of sheepish. You should have something there on behalf of the province or yourself to present, because the service clubs or the town are presenting something to this person who has given of his or her time so freely. I just think we, as

members, should be able to carry some little thing along so that they could say, "Well, this is beyond the call of duty for somebody to put 25 years into a volunteer organization" or whatever it might be.

I just wondered if the other members felt the same way I do. We are talking about something along that line that fits into what Mike has been talking about.

Hon. Mr. Patten: I think there are three things here, and perhaps we should lay out everything that is available for members. I think we have that basically already, but, for example, the Ministry of Citizenship has volunteer awards. First, we should sort of take a look at those and see if they are broad enough or if they might satisfy that.

Second, this can be used for what is an obvious special occasion. I think it comes back to what Mr. Breaugh says, "What may appear to be obvious to a member may not appear to be obvious to the government or the Premier's office or whatever." They may say, "Your brother-in-law's pitching debut for the local lob-ball team might not be considered that occasion."

We may have a category where, let's see if we cannot have that service as a payback thing. "It is \$14, we will give you this." We can print it up as we have the laser printer now, which I think does that. Let's look and see if we cannot provide that. Then members know that, "On those sorts of things we can do it." If there is any disagreement on it, then the member says, "I will pay that myself, or out of our constituency office."

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Mr. Chairman: Mr. Campbell?

Mr. Campbell: My comments have been addressed by the minister in both the question and the response.

Mr. Chairman: I would like to tell you, Mr. Minister, and your colleagues there, obviously the committee is very pleased with the changes that have been made. I want to compliment you on that. My own impression is that over the last number of years the service I have had from the ministry with regard to plaques has been excellent. The number of errors has been very minimal on plaques. I am sure you can be complimented with the fine work you are doing.

There are no further matters. Thank you very much.

ORGANIZATION

Mr. Chairman: I want to have the members remain, because I just want to raise one other item. That has to do with when the Legislature prorogues, shortly, whenever that is. There are some other matters that you might want to discuss for the committee after the initial business that we are going to be dealing with from early February until about February 19 or 20.

I am just wondering if you have any particular things that you would like to have the committee discuss during that time. You know that with regard to freedom of information I am not sure whether the Chairman of Management Board of Cabinet is going to be ready to present the material for the freedom of information bill, where we can go through a number of acts and see if they are in conformity with the Freedom of Information and Protection of Privacy Act.

The other has to do with the Election Finances Act, the election expenses and so forth. We want to try to discuss that, but whether we are going to have an opportunity to do that, whether we are going to be ready for that—I am hopeful that we will be able to, but I am not totally sure at this point.

I am just wondering if members have other things that they think we should discuss during the period when we leave here, probably in late January or early February, and the time we come back, in late March or early April.

Mr. Breagh: Are you thinking of trying to schedule some committee time in March to do matters like this?

Mr. Chairman: Yes, I am thinking that we need to schedule some time, and we should probably try to schedule it later rather than earlier so some of the ministries have a chance to get the information together. If we do the election aspect we may have to schedule some hearings, both locally in Toronto and in some other parts of the province.

Mr. Breagh: Okay. The only comment that I have would be to make a plea that I think most of us will have other committee commitments during the recess period. I am kind of blocked up until, I think, the second week in March. The only occasions when I really would be available would be from the second week in March on. As I understand it, they are talking about recessing until some time in April.

Mr. Chairman: It is usually about two months, depending on when we get—

Mr. Breagh: The time frame, then, when it would be possible for me to sit would be in the last three weeks in the month of March. Perhaps for next week's meeting we could do a little workup of whether freedom of information is available or the Election Act is available. We could have some information as to which of the ministries might have their materials ready, and then we could get a little more definite about dates.

Mr. Chairman: Assuming we come back early in April—I am not quite sure what early means—what we could do is, the traditional winter break goes from March 11, I think, and it is finished somewhere around the 15th or 18th. What we might want to do is schedule the last two weeks in March and, if it is available, the first week in April.

Mind you, our scheduling is subject to what the House leaders do, but we could put in our request for those three weeks. If we need them, we need them; and if we do not, we do not.

Mr. Campbell: Just be aware that the March break this year is very different across the province. Apparently it is very widely scattered, and some members may have other plans in that week, and there is also the business of the House.

Mr. Wiseman: For anybody in university reading week is earlier, in February.

Mr. Chairman: Is it your feeling then that we should not meet before?

Mr. Breagh: We do have a number of matters that are going to take some time. My difficulty is that I do not have much knowledge, at this point,

of which of the ministries have their background work done and which would be the most appropriate to schedule during those time periods. In terms of my own personal schedule that would be fine: to set aside the last two weeks in March and, if possible, a week in April to do this. Perhaps by next week we might have some information as to which of the two items could be put on our agenda then.

Mr. Campbell: Or at least before we rise for the recess.

Mr. Breaugh: Yes.

Mr. Campbell: And then maybe plan better than that. How is that, Mr. Chairman? Does that give you enough direction to help you with your decision?

Mr. Chairman: Okay. I think we have some direction. If there is more information we can give you, we will supply you with that. I might say that next Wednesday we will have the Sergeant at Arms and the director of security from Ottawa here to meet with the committee at 3:30 in camera, to discuss security. I hope that all members can be present because, as you know and I guess all members know, that is a very important topic and something that we should thoroughly discuss, both in the short term and, if restoration goes ahead as I hope it will, in the long term.

So next Wednesday at 3:30 then, we will be discussing security. If there are no further matters, this meeting of the standing committee on the Legislative Assembly is adjourned until next Wednesday.

The committee adjourned at 4:07 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY
LEGISLATIVE BROADCAST SERVICE
WEDNESDAY, JANUARY 25, 1989



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)

VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)

Breaugh, Michael J. (Oshawa NDP)

Hampton, Howard (Rainy River NDP)

Johnson, Jack (Wellington PC)

Matrundola, Gino (Willowdale L)

McClelland, Carman (Brampton North L)

Morin, Gilles E. (Carleton East L)

Sterling, Norman W. (Carleton PC)

Stoner, Norah (Durham West L)

Sullivan, Barbara (Halton Centre L)

Substitutions:

Faubert, Frank (Scarborough-Ellesmere L) for Mrs. Sullivan

LeBourdais, Linda (Etobicoke West L) for Mr. McClelland

Clerk: Forsyth, Smirle

Witnesses:

From TVOntario:

Mayot, Ross, Director of Corporate Relations

Allman, Catherine, Manager, Telecommunications Relations

From the Office of the Assembly:

Somerville, Bill, Acting Director, Information Services Branch

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, January 25, 1989

The committee met at 3:41 p.m. in room 228.

LEGISLATIVE BROADCAST SERVICE
(continued)

Mr. Chairman: Ladies and gentlemen, we will get the committee in order and start proceedings. We have a couple of items on the agenda today and then we will go in camera to see if there are any other matters that we should discuss.

At this point we have the proposed guidelines for a third-party use of the Ontario parliamentary transponder. We are honoured to have with us today Ross Mayot, who is the director of corporate relations with TVOntario, and Catherine Allman, who is the manager of telecommunications relations for TVOntario. They sent the heavyweights to us today to try to deal with these guidelines. We also have Bill Somerville, Ont.Parl director, I guess.

Do you want to take seats up here? Members can take a look at the guidelines, which they have had for a few hours to take a look at to study and ask questions. Is there anyone who does not have these before him? If you do not, then I have an extra copy here I am sure we can share with you. Do you have questions of the delegation here?

As you know, there is a letter addressed to me by Catherine Allman suggesting guidelines, and there are some things here. I guess you have been able to incorporate some of the additional thoughts you have had on these things.

Mr. Mayot: Yes, we have.

Mr. Breaugh: I would like to move the recommendations that have been suggested by TVOntario, and perhaps we could discuss a couple of them. There are some things that are kind of related to this that I would like to talk about a little bit.

Essentially, these guidelines are fairly straightforward; they are guidelines that have been used, as I understand it, on other occasions by TVOntario and it seems to me they meet most of our needs.

Perhaps we need to do a little bit of work about getting this information out to other groups who might want to make use of the transponder. I thought perhaps we should discuss a little bit now, since the applications to use it seem to arrive by some mysterious means, if we should make known in the first instance that it is available under certain conditions to certain groups and how we might go about that, or are we perhaps better off just to leave it as it now is?

The only thing that I think is a little unfortunate about that is there might well be other groups of a similar nature to the application we have today which could make good use of the facilities but simply are not aware they are there.

I am wondering whether, when we have completed our discussions of the guidelines, we should address our minds to how we would make these guidelines known to groups. How actively do we want to pursue that? Would it be appropriate, for example, to put that on the Ont.Parl broadcast system—maybe not every day, but on one or two occasions during the week? We have previously discussed almost a program listing idea, and we do something very close to that now.

I wonder if it might be appropriate to devise some system whereby we at least make these guidelines known to people and make the public in Ontario aware of exactly what the Legislature's policy is in terms of the use of its facilities—what kinds of groups might make use of it, other than those who it seems just happen to figure out that they could assist themselves substantively by using equipment and facilities that neither TVOntario nor the Ont.Parl network has.

Mr. Chairman: I think one of the things we have to keep in mind is that the guidelines address ongoing users and are tapered to cater to those people as opposed to the one-shot kind of situation which might develop and which has developed in the past.

If we were to expand and ask for additional users, we would get to the point where it is going to cost us a lot more money in order to facilitate those particular things, whereas the Wawatay group seems to be an ideal group that found its way into the use of that transponder.

If we are going to expand into a lot of advertising and so forth, I think members should be aware that it is going to cost a lot of money to do that.

Mr. Breaugh: What I was suggesting was that we do something that would not cost us any money. We are not really writing a firm set of rules on the users themselves. We are suggesting that ongoing users and experimental field trials for educational purposes would be among the groups that would be considered, but we are not suggesting any alteration.

For example, later today we have an application from the Easter Seal Society to make use of it. That would continue to be processed for a onetime user in the same way that we have always done it: someone would make application to the Speaker, we would get the comments from TVOntario and our own Ont.Parl people, and it would be brought before the committee and the committee would be the decision-making group. There is no change suggested in that, is there?

Mr. Chairman: Do you want to answer that, Mr. Mayot?

Mr. Mayot: The thrust that we are advancing is one whereby, as much as possible, we would really steer clear of ad hoc, occasional use: a weekend here, a weekend there. We have tried to accommodate that.

While each use appears at face value to be eminently supportable, it does lend itself to a kind of level of processing and management that certainly TVOntario did not envisage when it undertook the licence for the service and, frankly, is not staffed to accommodate.

As you know, the broadcast world and the broadcast distribution world are heavily regulated. That lends itself to a great deal of process—a lot of paperwork and lot of analysis of detail. We have one person doing that,

Catherine Allman, whose hands, I can tell you, are quite full in a very turbulent world, as it is, trying to manage our three network licences.

From a practical point of view, we really feel that responding to a number of occasional users is really beyond what we are capable of doing at the current resource level. That may be what the chairman was referring to in terms of the expenses that we would be incurring as an organization, or for which we would be asking the Legislative Assembly to reimburse us.

Our thrust has certainly been more along the line of using the Wawatay as the exemplary one. That is what we would like to see; or we would like to see other experiments along educational uses. As you know, for well over a decade TVO has been involved in a lot of satellite development, whether it is along the lines of developing the Wawatay, making arrangements to use parts of the satellite to distribute CJRT, the Ontario educational radio service, and other experiments where we found ways to connect classrooms within Ontario and across Canada, so that students can communicate via computer and do computer conferencing. Those are things we have done in the past that we would like to sustain through these recommended policy guidelines.

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There is no doubt that there will be various interests and that various groups will come forward, some of which will have a strong point of view and will want to communicate with people throughout the province. We find it a somewhat daunting prospect to be involved in the evaluation of a number of applications of that kind, some of which would have a point of view and some of which would be competing for time.

If we did promote it as a kind of underutilized facility, it is our view, with respect, that it would generate a level of interest that would really be well beyond what we have experienced, for sure, and in all likelihood well beyond what we could cope with.

Mr. Breaugh: Are you saying that we are probably better to leave the process as is and that if we encountered some kind of staff evaluation time problem with everybody's budget, at that point we might begin to say—if, for example, one of the ministries wanted to sponsor a group, and we have a letter from the minister endorsing a group today, one of the responses from this committee might well be: "That's fine, but here's how much it costs us to evaluate and prepare recommendations on the matter. If your ministry will absorb those administrative costs, we would be happy to process that."

Frankly, I think there would be a number of groups who would think that is not a bad idea at all. When one looks at the alternative they might have to face in terms of meeting costs in the private sector, this would look dirt cheap to them. I am not particularly afraid of that. However, I accept that is not the ideal that you want to get into.

Mr. Mayot: Our idea, in terms in advancing the recommended policy guidelines, was to lay out something so that there is a control of both the volume and the nature of the service.

We think, as I say, there are many possibilities in terms of people who need a service, let's say for six months. We are currently engaged in an educational experiment to do that, or the ongoing kind such as Wawatay or another group in which perhaps everybody sees a kind of social benefit. It does not represent the kind of association that has a point of view.

I must raise this point, which I know you have considered: We certainly do not want to get into the business of stealing the common carriers' lunch. As you know, we have a problem right now with the balance between independent producers feeling the more we do, the more we are taking business away from them. We cannot be perceived, without bringing an awful lot of criticism to us and to the Legislative Assembly, as arranging a bypass to the normal business of distributing programming or other services via satellite.

Again, it is not to say that is an ultimate hangup, but in terms of the guidelines, we do not want to create the impression we are trying to siphon off business.

Mr. Breaugh: Okay.

Mr. Morin: I remember very well when we were first approached by an organization—I think it was through the member for York North, Charles Beer—to try to obtain some time to raise some funds for a CAT scanner. I remember also that I was against it. My mind has changed since then. I saw the program; I think it was worth while and it is a good cause.

As you said, I don't think we should publicize—as Mr. Breaugh has proposed—because you will attract all kinds of other people. Why not give it as a sort of privilege to a member of the Legislative Assembly, to say that there is a service that he can rent, that he has at his disposal?

Let's take my riding. If I am approached by Montfort Hospital and I know they are going to raise \$3 million, then they would come to me. I would be the first person to screen their request. In other words, are they an honest type of organization? Are they an organization, for instance, such that we would have to reserve about \$5 million and put that aside in case we were sued?

I think you would rely first on the credibility of the member and then after that, follow the normal procedure—go through you, which is another process of screening the organization. I think it is a valuable service. It was Mr. Breaugh at that time who said it costs nothing. I did not agree with him. I agree with him today because it really achieves its purpose. That is the reason for the whole organization: serving the public. It will always cost money. There is no question about it. Just to turn the switch on costs money.

On the other hand, it creates a service. It is getting to be so difficult at the moment to raise funds to help organizations achieve their goals. It renders a service vis-à-vis the government, which means that we do not have to raise those taxes. Consider that type of idea, given it is a privilege or, I would say, it is a service that the MPP can propose to his constituents.

Mr. Chairman: I just want to draw to the members' attention the fact that particularly page 2, item 1 (a) and (b), we are talking here about ongoing uses. We are saying that the Wawatay group, which is an ongoing user every Sunday, is the one that would meet these guidelines.

If you go further, then you also have the application we have to deal with later. What we are saying is that the Easter Seal Society's application is in. If we were to receive that application today, it would not meet these particular criteria because it is a onetime user and would not meet these criteria.

We are going to deal with the Easter Seal Society a little later. That is item 2. But I think members should be aware that adopting these guidelines, which I endorse wholeheartedly, would exclude the Easter Seal Society because it is a onetime user.

Mr. Breaugh: It is certainly not my intention, in moving the recommendations, to exclude anybody. I am reading that same page where acknowledgement is made that there have been onetime users in the past. I want it clear that this committee reserves the right to make onetime applications acceptable.

Just to carry it a bit further, I have no objection—in fact, I am supportive of the idea that we have guidelines. But I want it made clear that even if everybody in the world thinks that the application fits within the guidelines, it must come before this committee of the assembly for approval.

Mr. Chairman: That is right.

Mr. Breaugh: There is nothing here to preclude, in any sense of the word, this committee approving anybody using the transponder, whether it is on a onetime basis or once every hour. The decision rests here with this committee.

If there is a financial problem that is caused—and there may well be—then we will have to address that. That is our job. But the approval for the use rests here. These are guidelines which I think are appropriate. They should not preclude or exclude any onetime user, but the decision in any event will be made by this committee.

Mr. Chairman: I think members should be aware that we are talking here about ongoing users. That does not preclude the committee from making a decision saying, "You can use it." We are just saying that particular application does not absolutely fall into these guidelines. Okay?

Mr. Somerville: Could I make a point? The definition of "ongoing user" is a definition of the Canadian Radio-television and Telecommunications Commission, as opposed to an "occasional user." The people who have used the transponder in the past come under the "occasional user" definition by the CRTC. To be an ongoing user requires a different licence which the CRTC issues. As you say, the people who have used the transponder before definitely would not qualify as ongoing users. They would be occasional users.

Mr. Chairman: With the exception of the Wawatay group.

Mr. Somerville: Yes, with the exception of the Wawatay group.

1600

Mr. J. M. Johnson: To start with, I support the suggested proposals that Mike has made. That is my understanding of what this committee was doing, and I hope there is an intention to change it.

Second, I would strongly encourage the use of the equipment. We have it and the public should have some use of it. I am very strongly supportive of its use by the people at the Easter Seal Society, if it can be accommodated.

The next point I would like to make is that I feel the Legislative Assembly should make better use of them. We have public hearings by many

committees, and I frankly cannot understand why we could not have some type of a bulletin board, a mechanism that would show the hearing dates of the various committees and maybe even a detailed agenda of what is happening. Leave it on for two minutes, five minutes or an hour. People could read and find out what that committee is doing. It looks better.

It seems to me many times I turn the channel on and I see the coat of arms and something saying, "The House will resume sitting tomorrow at 1:30." It would be more useful to have, as I say, a rotating projector or whatever saying the standing committee on resources development is sitting in whatever room, dealing with a particular bill and public hearings will be held on certain dates.

It would seem to me that we would be supporting the intent of this Legislature to provide the public with information pertaining to hearings without going to the massive expense of advertising in every paper in the province. Some of the bills that we have for committees are extremely expensive. I assume we would still have to advertise, but we could certainly cut it back to some degree.

I think another suggestion would be the legislative page program. We could have a shot at promoting the page scheme and several other projects of the assembly, not government business and not the ministers taking hold of it and using it to sell their program, but things dealing with the legislative chamber, such as pages, maybe once a week a 20-minute runup of how a young person could become a page.

Those are just a few suggestions, but the most important, I think, is notifying the people of the public meetings that the committees are holding—the times, the dates, all the information—and continuously, not just a one-shot deal, rather than simply looking at a coat of arms and saying the House will be on, even if it would only run maybe 10 minutes an hour. That is it.

Mrs. LeBourdais: I will perhaps apologize in advance to some of my colleagues; when one substitutes, one is not always as well informed.

I gathered, Mr. Mayot, that you had said that your capability at the moment to handle onetime users was something that was very pressing, although philosophically I would find that most people, including myself, would support an organization like Easter Seals. Is this the kind of situation that you are saying is becoming increasingly difficult for you to handle?

Mr. Mayot: Yes, that is correct.

Mrs. LeBourdais: Okay. I have one other question. On an occasion where—for instance, I am hypothetically thinking of the bells ringing for several days—members are not specifically in the Legislature, but we might have the televisions on in our respective offices to be looking for messages, if during that time period it was already being used by another organization such as Easter Seals, would bulletins, etc., be run across the screen calling members? Would the possibility still be there for that kind of thing to happen?

Mr. Somerville: With the present guidelines and our licence from the CRTC, we would not be able to interrupt the proceedings for messages, as you say, or other users.

Mrs. LeBourdais: Therefore, we would not have priority if that time slot—

Mr. Somerville: We would have priority.

Mr. Mayot: Yes.

Mr. Somerville: The other people would not have access.

Mr. Mayot: They would be pre-empted.

Mrs. LeBourdais: So we would be back to a situation where for several days in a row we could be looking at a static picture of a crest or the pigeons at the front or whatever?

Mr. Somerville: Yes.

Mr. J. M. Johnson: Could you run cartoons every once in a while to break the monotony?

Mr. Campbell: If you will draw them.

Mrs. LeBourdais: And there could be no exception to that?

Mr. Somerville: Not the way I understand my guidelines as director of the service: it is parliamentary procedure going on.

Mrs. LeBourdais: Of any sort; then we take priority.

Mr. Somerville: Yes.

Mr. Mayot: If I could just supplement Bill's response to that, the CRTC has licensed the Ont.Parl service and licensed TVOntario to be the licensee of that service on the basis of what we said was going to be carried on that signal, and it was at that point exclusively the business of this House. It was not, "Well, we'll do some of that and we might mix and match a few other things and fill up the space," unless, as Mr. Johnson is saying, it was committee work or other activity that the members were involved in. That would be an acceptable arrangement under the parameters for the licence, but the licence is quite restrictive in terms of, "The business of this House is the reason you have a licence." Everything else takes kind of a distant subordination to that.

That is why the pre-emption of any third party's use—it could be the Wawatay Native Communications Society; it could anybody we have agreed to—is made immediately upon the needs of the Legislative Assembly. That needs to be clear.

Mrs. LeBourdais: Just before I do conclude, if I may go back to the original question then, if you are saying you cannot or find it difficult at this point to handle the onetime people, am I wrong in assuming that the committee is asking that we do allow, subject to the approval of this committee, such organizations as these onetime people?

Mr. Breaugh: We have done it before.

Mrs. LeBourdais: Okay. How are we going to handle the situation then?

Mr. Mayot: It would be my understanding that what we are trying to advance is a guideline, a kind of policy guideline that would prevail. What we have identified is the notion of ongoing users rather than the ad hoc, once-per-year approach.

I do believe that an example might be as follows:

A group comes forward—it might be the Easter Seal group—and if this committee approves this set of guidelines, then the response from the Legislative Assembly, from the information services branch, would be, "You don't meet the criteria."

If the group appealed that decision, the appeal would come to this committee, and notwithstanding the guidelines, the committee could say: "We're aware of the guidelines. There are compelling reasons"—whatever they may be—"and we think it should be reviewed or reconsidered" or whatever.

It would be my sense that the means through which the one-off use could come back to you would be through that kind of procedure.

Mr. Breaugh: I would have no objection, for example, if you were to put a dollar value on what it costs you to process onetime applications and you said to us, "This costs us a thousand dollars in staff time," or whatever reasonable number you might put together.

I would have no problem with the committee saying: "Here's an application from a group to use our facilities. We think that is an appropriate use but it costs somebody some staff time. If you can find some funding somewhere to meet their costs of processing, there is no difficulty."

For example, in this case, if we are talking that kind of money, I do not think there is any fund-raising group out there that would not be able to look at that and say: "If we rented a hall in downtown Toronto it would cost us that kind of money, and this gives us access to a lot more people than that. This is a very good investment." Or they might find a local Rotary club or a local minister who has responsibilities in that field who would say, "We would surely go out and put an ad in the newspaper that would cost that kind of money, so this is a wise way to assist a volunteer organization."

I do not think the staff time argument is one that it is insurmountable at all. I think all we would be looking for is some reasonable way to allocate whatever expenditures you might have had to go through to process the applications. I have no difficulty with that.

1610

Mr. Mayot: I think your point is well taken in terms of an allocation of what you would say it costs. With respect, though, I must remind you that we have one person who is responsible for the complete regulatory and industry liaison at TVOntario, and in these days where broadcast acts are being reviewed and rewritten, there are a lot of things within the regulatory environment. Even saying, "Stop doing that because we have an application here from a group"—it is a legitimate group, and there is no doubt about that, but we have to investigate whether this is something that should be considered.

I do not want to sound petty about it, but we do not have a team that is at play on this kind of thing; it is one person. If we are going to be entertaining those applications, and especially if there is this notion that we would want to make this more available—it is still underutilized, because in the last year or 18 months we have only had two users, and we would like to talk it up a little—it is going to make those kinds of demands. It gets away from any sense of being \$1,000 to the real implication of adding staff in order to accommodate it. It does not mean they would even be fully occupied necessarily on those kinds of applications.

Frankly, we would not want a staff for that purpose, but it is just to share with you our conundrum in even taking up your proposition.

Mr. Faubert: There is just one issue I wanted to look at. According to this policy, I assume you are going to entertain other ongoing users, and not just the ones that exist. In other words, if someone puts in continuing programming that falls within your guidelines, every time that comes on, do we not squeeze off the opportunity for any onetime user?

For onetime users to come on, they are going to dislocate the ongoing user in some instances. As a matter of fact, that is one of the questions I have about this Easter Seal proposal. We do not know yet what they are dislocating by getting that time. I can think of at least three or four others who are almost in the same position as the Easter Seal Society. The social benefit of it is just as great as Easter Seals. Such things as the Variety Club and Jerry Lewis telethons have social benefit as a base and they are all fund-raising.

Where do we draw the line? Do we say we are there to encourage ongoing users which in effect says we are not going to have the opportunity to entertain onetime users in the future?

Mr. Mayot: This probably sounds like a copout, but your question is exactly our dilemma. It is the job of Job, if you will, to say that there is not only a logistics issue, because there are a lot of good causes. Our approach to trying to set up a policy here was not to get too encumbered by whether these are good causes but to look at how we can maximize the use of this service without its becoming a fourth service or something that really gets beyond our means.

In terms of our suggested priority to this committee, we would like to encourage ongoing users as a better maximization in public benefit than being a convenient way—and I do not want to sound anticharity on this at all—to bypass the occasional-use tariffs; Bell Canada has a rate card that says, "If you want to use the satellite for a weekend, here is what it costs," and it is not a huge sum of money.

We do not want to get into that bypass arrangement. But it makes us seem pretty nasty about motherhood if we are perceived to be saying that the Easter Seals campaign is not an eminently good one.

Mr. Faubert: Supplementary to my first question, once we approve a onetime user, does that give them a precedent to be approved at some time in the future, or do they all come back in a single application again? I know they have to apply, because they would not fall within that and they would have the right to appeal here. Would that just strengthen their argument of precedent?

Mr. Mayot: That is a good question. We would hope it would not be a kind of automatic annual occasion; that by virtue of being approved once, it means you are on for ever and ever. We would think that the arrangements we have made to date do not set a precedent, but we have accommodated those in the absence of policy, in the absence of guidelines.

I think it would be inappropriate for us to say that by virtue of being on once, you get on whenever you want again because you are the same player for the same cause; you just have either annual needs or quarterly needs or whatever.

Mr. Faubert: That almost says we have to have a future policy for onetime users, because it is not one time. As we point out, once they are accepted as a onetime user, then they have argument of precedent for continuing onetime use, if you want to put it that way, on an annual basis. There is a danger in that. We then have to develop a policy on how we deal with that. You enunciated a desire but really not a policy in saying you hope that would not happen.

Mr. Mayot: In our view it would happen by exception based on appeal, but that is only our suggestion. Obviously this committee will either accept those recommendations or suggest alternatives.

Mr. Morin: Obviously, you are warning us.

Mr. Mayot: To represent TVO's view on this, certainly we do not want to say, "This is what TVO thinks ought to be done," or "Do this." We have been asked by this committee to come forward in co-operation with the Legislative Assembly to make some suggestions. Based on our experience of using satellites over the decade and the experience of working within the broadcasting industry and based on our own staffing capability, we think this would be a very good guideline. It allows people with longer-term needs to get access to the public but which have the capability of acquiring a licence from the CRTC for that purpose; to kind of weed out the people who have a need and do not want to pay tariffs to do that.

Mr. Morin: What I am saying is that we can expect the Easter Seals will be a repeat; they would ask year after year, because it is a program that has been going on for years. Each time they would have to appear before this committee and ask for an authorization; it would be a brand-new application. Correct?

Ms. Allman: There may be the possibility. Easter Seals is asking for March 4 and 5. No matter what you decide about whether they have to come back again or whether it is automatic, in the coming year another group could be interested in March 4 and 5. There is some indication there will have to be someone paying attention to the scheduling, or arbitrating or choosing between the two, which would fall to you.

When it comes time for the technician to walk up to the reception area and take a tape from someone to put it into the videotape machine at TVOntario master control, there has to be some schedule that has been laid out ahead of time, and some expectancy and legitimacy to the different ones that are being scheduled.

Mr. Morin: Would the fact that we would charge them a minimum fee create some opposition on the part of the commercial enterprises?

Mr. Mayot: I do not want to try to position our policy by saying the commercial people will come down on our heads, but we do know there is a legitimate, large industry in the business of providing satellite distribution services. That is not what we are in the business to do.

If there is any sense that we are undermining their business by either preservice or by putting up a token amount which we pocket, which still has the effect of bypassing their business, I have no doubt, because we have experienced this in the past both with independent producers and with other carriers—there were complaints about us giving the Wawatay Native Communications Society a regular, in their terms, free ride.

1620

Mr. Morin: What was your argument in favour of Wawatay? What did you respond to them?

Mr. Mayot: Our response was that this was a convergence of interests. The CRTC has indicated to all broadcasters in Canada that it wants to see better measures to support native broadcasting and native culture. This was a way for us to do that, and it has become an exemplary way across Canada.

Again, there was the convergence of the federal government, TVOntario's own interest in doing this and the provincial government's interest in terms of this kind of group, which was overwhelmingly in favour of a public service of this kind.

If Wawatay gets to the point where it is a full-blown operation and commercially viable, then obviously we would disengage from that and it would be set free on its own. But it was that kind of public policy that was motivating our arrangement with Wawatay and similarly with CJRT.

Again, these are public policy matters that are being accommodated rather than interest groups, or even nonprofits or groups that choose to find the cheapest way to accomplish their task. They are coming to what they perceive to be an available resource to try to achieve that. That is something we did not envisage when we got into this and, frankly, would not encourage.

Mr. Morin: Would you receive any complaints about the fact that we leased or lent our services to this organization—what was it called? You know, when Peel raised money for the CAT scanner.

Ms. Allman: The Whipper Billy Watson CAT scan centre.

Mr. Morin: That is right. Did you receive any complaints?

Mr. Mayot: No. We did not receive any, to my knowledge.

Mr. Morin: Do you expect to receive complaints now as we start to give authorization to more?

Mr. Mayot: It would be my honest opinion that if this became habitual, where there was more and more time and more and more small users who are looking to us an alternative to using the business approach, there is no doubt that we would be criticized by the people in that business.

Mr. Morin: Am I understanding that you are saying then, "Leave it as such but do not publicize"?

Mr. Mayot: We would say there are enough ways for the interests that we have in mind to be in contact with Bill, TVOntario and this committee to say, "Look, we've got a proposition here and it's something we think is of interest." Rather than making it a promotional thing, "Is there anybody out there?"

Mr. Morin: And that is where the problem is.

Mr. Mayot: Yes.

Mr. Morin: Okay. That is it, Mr. Chairman.

Mr. Somerville: I would make a point. Satellite time is becoming scarcer. There are more and more people looking for access to satellites, and the number of satellites up there is limited. If we continue the way we are going, we will get more applicants, either one-off users or ongoing users. Satellite space is a scarce commodity.

Mr. Chairman: Can we get it or not, Bill?

Mr. Somerville: There is an application before the CRTC at the moment for amalgamation of a CBC group and a cable consortium. They want access to the parliamentary channel when the federal House is not sitting. They want to use that for other uses.

Mr. Chairman: So they can show Bugs Bunny.

Mr. Somerville: They are interested in showing this parliament on it. It has not been officially approached, but that is one interest they have. They also would televise other meetings they think are of a general interest nationally.

Mrs. LeBourdais: It just seems to me that you are automatically setting up a catch-22. These onetime users are not only going to grow in number the moment the word gets out, but they are going to be habitual onetime users, organizations such as the Easter Seal Society and all the other telethons, all of which come up each month—this month it is Variety Village, February is Heart Month and March is Cancer Month; it is going to be self-perpetuating.

Again, being new, I do not know all the previous discussions, but it seems to me that what we are maybe discussing is whether you are going to turn this into a fund-raising channel as opposed to a vehicle for educational programs or documentaries or whatever, which have a longer-term approach but whose sole aim is not to raise funds for whatever very worthwhile cause. Essentially, these are organizations that exist on very tight budgets. Something like this would be more affordable than any other kind of vehicle that they have other than going through commercial networks.

I think you are setting up a problem right off the bat by allowing the fund-raising component, because it is a matter of just finding other uses for the air time, which at the moment is not fully booked. Maybe that becomes the dividing line: Is it going to be a fund-raising function or something that would fall under more of an educational, information type of programming but not have fund-raising as its base?

Mr. Mayot: That is a very interesting point. It strikes me with some humour, because as some of the members may have seen that a couple of weeks ago in the Toronto Star one of the columnists was outlining the various specialty channels that would be coming forward in the near future—one was the time channel, the other was the sleep channel. I had never thought of the fund-raising channel.

All humour aside, I think it does raise a very interesting point. I know from a brief conversation with the Speaker that he has some strong views about the commercialization of this service. It is my understanding that he personally would not support it.

Mrs. LeBourdais: Thank you.

Mr. Chairman: Okay. We have a motion on the floor. I am reluctant to take a vote at this point.

Mr. Morin: We have 20 minutes to call the people.

Mr. Chairman: I beg your pardon?

Mr. Morin: We have 20 minutes to call the people.

Mr. Chairman: Do you want a recess? We also want to discuss the Easter Seal Society thing. I think what we will do is recess for about five minutes and hope that we get a more balanced quorum in here.

Mr. Campbell: I will try and do my bit.

Mr. Chairman: Of course, the Liberal whip is to be commended. There is no problem here with numbers and so forth, but we do have an absence of the other two parties here, so I am reluctant to take a vote at this time, despite comments in support of these guidelines. Mr. Somerville, you have one more comment?

Mr. Somerville: I just wondered if the members present would like to think about the educational purposes. Do they want to define that or consider that, or would they leave it wide open? What is education?

Mr. Chairman: The educational aspects?

Mr. Somerville: Focuses, yes. How would you define an educational group? Is doctors teaching doctors education?

Mr. Faubert: Political education.

Mrs. LeBourdais: It has a dollar-raising capacity to it.

Mr. Chairman: I think that to define educational programming and so forth would be somewhat difficult. There are a lot of people who would say that education was something I would not necessarily put in my definition, and they might be right and vice versa. It would have to be a fairly broad definition, which might then create some problems with regard to lobbying and whatever else you want to incorporate.

I think we will recess for five minutes and then we will come back here at 4:35 p.m.

The committee recessed at 4:29 p.m.

1631

Mr. Chairman: We will call this committee meeting to order. We have the motion, as put forward by Mr. Breagh, regarding the adoption of the guidelines.

Motion agreed to.

Mr. Chairman: The second item has to do with the request by the Easter Seal Society to use the transponder on March 4 and March 5. You will recall that March 5 is a Sunday and that, if they use it the whole day, it would overlap with the Wawatay group. If you are thinking of this, the other

aspect I want you to keep in mind is that this a fund-raising effort and one of the aspects is that other commercial entities will be advertising on the particular program.

Mr. Morin: I am sorry. Do you mean advertisements literally?

Mr. Chairman: Yes.

Mr. Morin: Ads from companies and so on?

Mr. Chairman: I do not know what kind of ads, but they will be pushing their particular products, whether it is X, Y, Z or whatever.

Mr. Morin: Is that not what we are afraid of?

Mr. Chairman: It is something that I think we should be concerned with, using the transponder facilities here in order to publicize and promote their particular products. Mind you, it is a fund-raising event, but that is an aspect I think members should have some concern with. Anyway, you have the request before you.

Mr. Campbell: Just a question on that. To your knowledge, what is the setup of this organization? Is it paying any fees at all for any use of air time or any allied stuff?

Mr. Somerville: From my knowledge of their telethon operation, they have a contract with the CBC. I do not know if there are any funds exchanged, but the deal with the CBC is that they are on from 7 p.m. on Saturday to 2 a.m. Sunday, but they will be pre-empted by the hockey game on Saturday night, so there will be three hours when the telethon is not on CBC stations throughout the province. Then on Sunday it is from 8 in the morning until 6 on Sunday afternoon. I have already told them they would not have access to the satellite on Sunday afternoon, because we use it for the Legislature process, so they know that they would have only Sunday morning and Saturday evening available.

Ms. Allman: I would like to restate what TVOntario usually says in this chair at this committee. We would hope that any use of the transponder does not pre-empt the Wawatay. To my knowledge at this time, they are broadcasting between 1 and 1:30 on Saturdays and 6 and 7—they moved their schedule a bit recently—on Sundays.

Mr. Chairman: From 1 to 1:30 on Saturdays?

Ms. Allman: Right, and I am afraid I have not seen this application, so I am not sure if there is an overlap there.

Mr. Somerville: Not on the Saturday. There would be an overlap with the Ont.Parl service on the Sunday afternoon, but they are aware that they could not overlap. Then they would be off the air—well, they would never come on the air on Sunday afternoon. We would go straight from the Ont.Parl broadcast to the Wawatay broadcast.

Mr. Morin: I would like to ask some questions of Mr. Mayot. Do you see any danger if there were, let's say, ads from Coca-Cola or any other organization that takes advantage of that—another channel—where it really becomes commercialized? I think we do not want that, because you are going to start to have complaints from other organizations where they have access to a

channel that costs them nothing. I do not think it should happen and I would like to hear the opinion of my colleagues on that.

Mr. Breaugh: Oddly enough, I have a little problem with this one. The first thing is we do not have the normal comments and processing we need to do before we approve or not approve this, so I would recommend that this matter be tabled until we have those comments.

I have a couple of things that I would like considered. I do not read their letter to mean that they want to go off the CBC, CBLT in Toronto and other CBC-affiliated stations around Ontario. My difficulty with this is I am not sure that our television facilities are suitably used by a CBC affiliate or the CBC network.

I am unsure of where you get your information about commercial sponsorship, but I think that too would be a no-no, even if that were to the extent that promotional credits were given to a particular sponsor during the production of the show. I think that whereas on previous occasions we have looked at a different style of fund-raiser—it was a local community doing its little thing one time and it was on this network—I see this as being a little bit different. If they are going to continue to be produced by the CBC and CBLT, then I think their preference would be to continue to use that channel as well.

I accept all the restrictions that no regular programming that we run on our network gets bumped by anything ever. So I am not sure that when they are fed through this kind of information process, they will particularly want to use the Ont.Parl network for their programming, but at any rate I would like this to go through the normal screening process.

I do not want to set policy as we go here but, as one opinion, I do not think this is probably exactly what they want. I do not think it would be appropriate for us, for example, to put on our network a program produced by a CBC affiliate or the CBC network. It seems to me if I were at CTV, I would have a little argument with you, that you were taking productions put together by one network in Canada, which has its own television network—why do they not use their own?—and putting it on yours.

I would like this to go through the process like any other application would, but I have some questions about this one. I think I see a few problems in here having to do with the programming that is produced by a recognized television network or by one of its affiliates and the sponsorship question.

I am quite happy to let it go through the process and to bring it back to committee when we have those questions answered, but I think there are some difficulties with it, not the least of which is that I am not at all sure that the Easter Seal Society would be very happy to live with the conditions we might put on its use of our facilities.

Mr. Chairman: I am cognizant of the comments here and I know that Mr. Campbell and Ms. Allman want to comment. One of the options we have is to table this until next week, at which time we might very well have a representative here from this organization. In addition, it would provide time to Mr. Somerville and TVOntario to make their reports to the committee on this. That is the way I am leaning at this point. I would like to hear the questions, because they may help to give us more complete reports.

Mr. Breaugh mentioned the sponsors. If you look at page 2, item 5, they say there, "Showcase our sponsors." I presume they are bona fide commercial sponsors, but that is one thing that Mr. Somerville should probably check out and that the representatives, if they are going to appear, could answer more fully next week.

Mr. Campbell: That is the first question I have. "Showcase" could be a promotional tag that does not actually have a commercial but just telling who they are as credits at the end of the show, although I think "showcase" means a more definite sponsorship or product identification, which to me is not the business we should be in.

What concerns me more is in paragraph 1 of the letter to Mr. Somerville: "We currently rent transmission facilities from either Bell Canada or Telesat, and the use of the transponder would effect a tremendous saving and would ensure increased funds to our programs."

That I have some difficulty with, because we are then competing with quasi-commercial enterprise. While it is ideal and I think the motives are clean on this thing, I still think we should have those questions answered precisely—what kinds of dollars we are talking about—so we can make that decision, and your suggestion, Mr. Chairman, that somebody from the organization help to answer the questions that way as well.

Ms. Allman: Although, not having seen a letter, I suspected, as Mr. Campbell has identified—CBC is the biggest user of Telesat facilities—that depending on its arrangement with fund-raising, it would be giving out some of its previously leased satellite capacity.

I wanted to speak to Mr. Breaugh's point there. As we see from the letter, the fund-raising group would have in fact paid directly, so it does illustrate the points that have been made previously today.

Mr. Chairman: Does anyone else have questions? If not, we have a suggestion to table this until next week at which time—or hopefully before that so that we can discuss those reports—we will receive reports from both Mr. Somerville and TVOntario and have a representative from Easter Seals. Agreed? Thank you very much. We will go in camera for a few minutes.

The committee continued in camera at 4:41 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY
ORGANIZATION

WEDNESDAY, FEBRUARY 1, 1989



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)
VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)
Breaugh, Michael J. (Oshawa NDP)
Hampton, Howard (Rainy River NDP)
Johnson, Jack (Wellington PC)
Matrundola, Gino (Willowdale L)
McClelland, Carman (Brampton North L)
Morin, Gilles E. (Carleton East L)
Sterling, Norman W. (Carleton PC)
Stoner, Norah (Durham West L)
Sullivan, Barbara (Halton Centre L)

Substitution:

Carrothers, Douglas A. (Oakville South L) for Mrs. Stoner

Clerk: Forsyth, Smirle

Witness:

From the Office of the Chief Election Officer:
Bailie, Warren R., Chief Election Officer

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, February 1, 1989

The committee met at 3:41 p.m. in committee room 151.

ORGANIZATION

Mr. Chairman: We will call the committee meeting to order. We have with us Warren Bailie, who is the chief election officer of Ontario. Mr. Bailie, do you want to come and introduce your associates? Please be seated.

Before we give you that particular honour, I want to mention to members the fact that, as they will recall, we were going to discuss the Superthon by the Easter Seal Society. They have withdrawn their particular request for use of the transponder. You have the benefit of the letter that was sent to Mr. Somerville, who is in the audience with us today. We need not do anything further on that matter.

You will recall too that some many months ago we had Mr. Bailie with us to discuss the Election Act. He gave some suggestions, in priority order, as to what we might tackle. Since that time, we have gotten permission from the House leaders to sit during the March break, whenever that occurs—February, March, April, whenever we get out of here—for about three weeks to discuss the Election Act.

In order to have him give us some additional benefit of his views as to what we might do on this, how we might advertise, things of this nature, where we might travel to, we have Mr. Bailie with us. Do you have any comments on this initially, Mr. Bailie, or do you want to field questions from the members?

Mr. Bailie: I do have an initial comment that I think you and the members will want to hear. The matter of the relocation of my office has been somewhat resolved, in that it will either be in Metropolitan Toronto to the east side or just outside Metropolitan Toronto on the east boundary, so that any concern I had that I might find myself in Cornwall when you are having a hearing in North Bay seems to have been put to one side. We would be able to pretty well make available whatever resources from our office you felt you would need. I just wanted to cover that one point that had come up in the earlier discussions.

I would like to introduce on my left my assistant, Lorie Wells, and my special assistant, legal, Alan Stewart. We have with us a new staff member who is our information and research officer, Michel Côté, who is sitting in to start learning the workings of our legislative system. That was all I had in the way of a preliminary statement, sir.

Mr. Chairman: Do members have any questions? If not, what we should do is look at what you want to do. As you know from the schedule, we have three weeks allocated for hearings. We may not need three weeks; we may need only two of them and some discussions about this. I doubt very much, even if we allocated three weeks, that we would get everything done in three weeks—the hearings—and come forward with a report. What is the wish of the members with regard to this matter?

Mr. Morin: Are these hearings to be held across Ontario?

Mr. Chairman: That is to be determined by the committee. I hope that we would have some meetings in some centres in Ontario other than Toronto. Part of the determination of whether you want to go to a particular municipality or not would be affected by the number of requests. I think that most of the people would not be terribly interested in these kinds of hearings except those associated with political parties, so the local Conservative, New Democratic Party or Liberal association someplace might want to make a submission to this committee, as well as individuals.

Mr. Breaugh: What I had anticipated would happen here is that there would be a reasonable amount of notification that there will be hearings on the Election Act. I think that is something that could be undertaken now in terms of designing what the notices might say and the distribution. I think it would be possible to begin the hearing process here in Toronto with the major registered political parties, most of which have some representation here in the city or could get someone here. I think it is a little difficult to judge whether it would be useful to hold hearings in other places.

Mr. Morin: How about northern Ontario? Thunder Bay?

Mr. Breaugh: I appreciate that there may be a response to the ads, for example, from people outside of Toronto, but I would prefer to assess the response that comes from the ads. What about taking a committee around Ontario? It seems to me if you wanted to do that, the sensible thing to do would be to allocate some time to go to the north, to the southwest, to Ottawa, Sudbury, Windsor, Sault Ste. Marie, Thunder Bay, places like that, but it is a rather expensive proposition to move the committee around. I am reluctant to do that unless I can anticipate that there are local groups that really want to appear in front of the committee.

The other side of it is that I do not question for a moment that the registered political parties do have some concerns; I am aware that my party has. All of them have some kind of an organizational office somewhere in or around Metro. They could respond fairly quickly, I would imagine, to a call for public hearings of a sort.

My preference would be to proceed with some kind of reasonable notice and to schedule some hearings here to see what kind of an initial response we might get, but to withhold any kind of tour of Ontario until such time as we are sure that there are enough people, for example, if we want to go to Thunder Bay. I think that is an eminently wise thing to do, if there are 10 or 15 groups in that part of the province that want to appear. But if there is one group, it makes more sense to me either to send the chairman and Mr. Bailie up to see it or to invite it to come down here rather than drag an entire committee to Thunder Bay to hear from one group. I would propose that we do the notice and the advertising and schedule some hearings here at Queen's Park in the latter part of March.

I am a bit concerned that we might have a little timing problem in terms of providing notice. It is the beginning of February now. The notices could go out sometime in the latter part of this month and you could give them kind of 30 days to respond. I am aware that most of the parties, though they have some professional staff, operate on an interest basis, so it might take them a while to gather in people who want to make the representations.

I would be content for now to give notice, schedule some hearings here

and in fact invite those registered political parties that want to attend to that first round of hearings and then, depending on the response we get, take a look at whether or not it would be appropriate to schedule hearings elsewhere.

Mr. Morin: I concur with what Mike says. It only makes sense. But would it not be a good idea to use our television channel at the moment to announce it now? We have never done that before.

Mr. Breaugh: I think I just did that.

Mr. Morin: I know, but you were too subtle.

Mr. Breaugh: You want me to do it again?

Mr. Morin: That is right. Say it nice and clear, because it has never been done before. We discussed that. You know that, Mike.

Mr. Breaugh: Yes.

Mr. Morin: It will save a lot of money.

Mr. Chairman: I am informed that the channel has been used from time to time to put in some advertisements about hearings that committees have held, but I am sure it has not been used widely. This might be an opportunity when we can take advantage of it.

Mr. J. M. Johnson: I think it was in 1984 when we had the last revision. At that time, it seems to me, we had public hearings in the morning, passed the legislation in the afternoon and reported to the House in time to have it proclaimed before the House recessed. It was a one-day deal. It was maybe a bit too soon; a representative of, I think, the Green Party was a little upset with our actions.

I would submit that possibly we could use the list of the people who appeared at that hearing process to start with and have special invitations, notification or whatever go to them saying, "We're going to do hearings and we would like you to have the opportunity to appear if you so wish." That would at least give you a start and then, as Mike has suggested, there are other interested groups. You should certainly notify the Liberals, and our party needs a notification.

1550

Mr. Breaugh: Where do we send that notice?

Mr. J. M. Johnson: We are not sure.

I do not think we need a lot of advertising as much as we need to make sure that the people who should get it are notified. Once more, I support my colleague the member for Oshawa in his good common sense.

Mr. Chairman: The support around here for different members is just incredible.

One of the things the committee might want to entertain is that if we are going to have the central parties make presentations, maybe they should be given the first opportunity to make those presentations in Toronto, and then

we would hear others after that rather than doing it the other way around.

Mrs. Sullivan: I think one of the things we are going to find as we proceed in our discussions is that we are going to be talking about not only the Election Act but the Election Finances Act. That is going to be built into any presentation that comes before us, because the two are so intertwined.

In terms of notification, I concur with the member for Oshawa that direct notification, by example, to political parties would probably be useful. I think also, though, in terms of some of the observations that have been made by the chief election officer, that there are other people who have a stake in the kinds of decisions that are being made. Some of those might be groups and organizations associated with multicultural communities, particularly when we are discussing sections of the recommendations, which we may, about listing the names of the political parties on the ballot—people in academia, in the political science field, people from perhaps rural or urban organizations who might want to discuss at some greater length the question of the swearing in of voters. We may even want to have representation from the legal community on the Charter of Rights and Freedoms aspects of those arguments.

There will certainly be interest if the committee expands beyond the sort of routine and technical recommendations that have been put forward by the chief election officer and hears interventions related to such things as polling or advertising, which cross over into, of course, the Election Finances Act. I think we are going to be faced with a situation where it is going to be very difficult to separate the discussion.

Indeed, those kinds of discussions about the influence of polling and publishing of polls and third-party advertising are very much on people's minds these days, particularly after the federal experience. If it is possible to expand the discussion through the public hearing process, given that the House leaders have agreed to a comprehensive review of the chief election officer's report, it might be worth while that it have, first of all, a broader interest and some relevance to the kinds of decisions that have to be made over the next period of time.

Mr. Campbell: I concur with the statements of my colleagues. One of the questions that was raised, though, is the legality of notice on our parliamentary channel. I know that we advertise in radio, television and print media, but I am just wondering what status our parliamentary channel has in that notification process. As I understand the way it reads, official notice is to be given to the media. Technically, this may not be included as the media.

I know it is a highly technical point, but perhaps we could get back on that so that we could formalize the notice process a little more. I agree that we do it sort of informally through our parliamentary channel, but I think it is one use we could make of it, if it were even more accepted and it became common practice. Automatically those kinds of notices go up, especially with the parliamentary channel, just before the televised proceedings occur. It is one thing I think we could consider and come back with a format to formalize the kind of informality we have been using, along the line of Mr. Morin's points.

We only mentioned three parties and I know we mean all registered parties, I suppose. I think the Northern Ontario Heritage Party's mandate has lapsed; at least, I read that a few years ago. I do not know if it has been revived.

I would have a concern about carting the whole committee around if we are about to hear the same sort of general comments that we would hear from the central party or from the people in Toronto who are dealing with the same sorts of issues. I think we do not do a duty to the kinds of funds that we spend on these things if, in fact, that is what it is going to be.

It is a different sort of process from the general public. I am concerned that the general public has input, but I am also concerned that the large amount of input would be from those political professionals, if I can use that term, who are intimately connected with this act, which really governs how we get elected, and the Election Finances Act.

I wanted to emphasize, too, the third-party intervention issue. We have discussed it briefly, but I think it is going to be an issue in the future. It is going to be the kind of issue that somehow we have to come to grips with.

I guess the last point I am making is that I think we should give our notice as quickly as possible—we have the format—so that we can have ample time to determine whether we are going to travel to certain parts or bring people in.

Those are my comments, Mr. Chairman. Thank you.

Mr. Chairman: I have heard what you said and I guess what we need to do is determine what kind of advertising we want to do and give some instructions as to when we want to start placing those ads. Then we will have a better feel on exactly how many people want to hear us or make a presentation. Any particular recommendations?

In the past, as you know, we have advertised in all the dailies and we have advertised in both English and French. Subsequent to that advertising we had discussion as to how much advertising we should do, whether we should maybe not advertise in both official languages in all dailies in the province, because there was money that might not be well spent. What is your wish?

Clerk, can you just refresh my memory as to what it cost us to advertise in the dailies in both English and French the last time we had some hearings?

Clerk of the Committee: It was between \$10,000 and \$18,000.

Mr. Chairman: That is one ad in French and one ad in English in each daily. That ad would be six inches by six inches or something like that?

Clerk of the Committee: It depends on the text. It is two columns wide and about that long.

Mr. Chairman: Say, four to six inches.

Mr. Matrondola: Does that mean in each and every daily newspaper or only certain major newspapers? I wonder whether it would be necessary to advertise in every single newspaper around.

Mr. Chairman: We advertised in all dailies. In fact, if I am correct, I think we even advertised in some other newspapers. I do not think we did in the weeklies. Were there any ethnic papers we advertised in? There are a lot of those.

Clerk of the Committee: We have not, no. Not recently.

Mr. Matrundola: It might also be important, then, to advertise in the ethnic newspapers, because then you will have a lot of people who perhaps are not very comfortable with the English language, or French for that matter. They would be able to at least have someone interpret for them, even with the ad was simply in French and in English.

Mr. Chairman: It gets to be a very expensive proposition.

1600

Mrs. Sullivan: I would think that a more appropriate way to approach the multicultural community would be through its organizations. That is where the points of view would come most clearly. The expense and indeed the difficulty of reaching all the ethnic press throughout Ontario and the community press throughout Ontario would be far more than the questions that we are dealing with would require.

Mr. Breaugh: My preference would be to do a direct mail to, for example, the registered political parties. It seems that it is not difficult to identify those who would be using the law on a regular basis. Those who had corresponded with Mr. Bailie, those who were representing a registered political party, are people who I think should get a letter. They would be, in my mind, the most likely candidates to appear early at public hearings, since they are in a little better position to be prepared to do so.

We have always had some difficulty with the advertising provisions. I think it is important that notices go in the dailies; but you can certainly spend a great deal of money for no apparent purpose in advertising. There is kind of a recognized list—it is a limited number of daily papers that have large circulation and they cover the vast majority of Ontario.

I would prefer to see that the ad go in two languages in those papers once. That, it seems to me, gives everybody reasonable notice about the proceedings, if you followed that up with a direct mail to those we know will be involved in it: the registered political parties; there may even be a list of groups who might represent the disabled, or cultural groups, ethnic groups, those who would have a particular interest in a part of the election process. It seems to me that we could work up a reasonably good list of that kind to mail to and that would be a more fruitful way to proceed.

The only difficulty that I have is that, at this moment, none of us knows when the House will adjourn and what the committee schedule will look like between sessions. So I think we will have to kind of leave that in the chairman's good hands to actually place the ad with the hearing date. I am afraid we will not be able to do that until the House leaders have agreed upon a date for adjournment and a schedule for the committees.

But everything else being intact, I do not see that as a major problem. If we are talking about, perhaps, three days of public hearings to begin with, and we know what the advertising provisions will be, then it seems to me that we could proceed and all the chairman has to do, when he gets the schedule for committee sessions, is select the date and they can then proceed to do the advertising and the mailing.

That is generally agreed upon and that is what I would propose to do.

Mr. Chairman: I think that is a good suggestion. For instance, I cannot think for a moment why you would have to advertise in French in the

Kitchener-Waterloo Record, for instance. I just think that is not money that is well spent.

Mr. Breaugh: You might if you were a francophone in Kitchener.

Mr. Chairman: You have to think of the overall budget. If you ask francophones whether you should put the money in an ad which they read in English anyway, because that is why they get the paper, or whether that money should be used for some other purpose, which I am sure would be another good purpose, then, you know—

Mr. Breaugh: Not to belabour the point, Mr. Chairman, but we do print bills in both languages now. When we provide official notification of what we are doing, we try to do that in both languages. I think it is a reasonable practice that when we advertise something of this kind it goes forward in both official languages. If cost is a problem, make it a smaller ad.

If we were doing a wide circulation and we were going to spend a lot of money on advertising, I would share your reservations, because, frankly, in certain parts of Ontario it may not be necessary to do so. But I think that it is useful to establish a format that goes out in both languages. Make it a smaller ad, if that is the problem. If the budget cannot handle it, I am sure there are ministries around here which could provide you with some assistance.

Mr. Campbell: This is a Legislative Assembly committee, and surely if we cannot set an example for decorum in the House, then I would respectfully suggest that the suggestions from Mr. Breaugh be undertaken and we deal with the normal course of things. I think it is important for us, as the committee on the Legislative Assembly, to set the tone. I suggest that we make a smaller ad if that is the problem, but certainly have both official languages represented.

Mr. Bailie: You might be interested in this information apropos of what the members have said regarding getting the information out to groups. On February 9, I am going to be appearing on a panel at the invitation of Remo Mancini. I understand that there is going to be a large number of organizations for people who are handicapped.

On February 25, there is going to be an all-day meeting with representatives from the parties, the caucus offices, as well as some of the senior members of the parties, on such subjects as third party advertising and so forth. It would be an ideal opportunity at those two meetings, if you would like me to do so, to make sure that these groups are aware. By that date, we would probably know the dates of the meetings. I would be glad to do that.

When we had these brief hearings the last time, as Mr. Johnson says, I had quite a bit of correspondence from people who were interested in the changes. I wrote to those people, several of the smaller parties and the representatives of groups which were representing mental patients. Just in recent weeks, I had heard from quite a few, wanting to know when the act might be changed, etc. As soon as the date was set for that meeting on December 13 or 14, I quickly contacted those people by phone.

I guess my final question is, once these meetings are set, if it comes to my attention that there is a group which has been contacting me that might be interested, would it be in order for me to advise it that there will be public hearings, that at that stage they are public?

Mr. Campbell: Absolutely.

Mr. Bailie: Fine, thank you.

Mr. Chairman: Just make sure that those names are forwarded to the clerk so that he can contact them to plug them in and so forth, as far as the appointments are concerned with this committee.

Mr. Bailie: On the same line, I want to advise the committee that Mr. Breaugh suggested that I contact the Attorney General (Mr. Scott) and see if there is something being done about making sure that there were no other constitutional infringements or problems. I sent a letter on December 20 to request the Attorney General's assistance in identifying any other areas. That is under way. We have not heard back from him.

Regarding the suggestion that Mr. Johnson made regarding having a legal opinion on the prisoners voting, considering the conflicting opinions that have been rendered in the other provinces, we have asked the Attorney General to advise us on that as well. We have had a verbal opinion on the second item, that the fact that this was struck down in another province would have no bearing on the decision that was made here. I hope to get that in writing.

Mr. Chairman: Mr. Bailie, in regard to the hearings that we are going to hold, what is your feeling about having returning officers from various constituencies across the province appear before the committee? Do you see that as a problem from your standpoint or would you welcome that?

Mr. Bailie: I would welcome it. We had the same situation when we had the hearings on the boundaries. In a few cases, returning officers did make representations. I see no problem with it.

Mr. Chairman: I am thinking that I have two universities in my riding, as you know. They might have particular problems there. Someone in Toronto might have particular problems, all of which go to you, but they might be able to elaborate on those for the committee, if you have no problem with that.

Mr. Bailie: No, I have no problem with it. Presumably, they have already made me aware of their concerns or suggestions. It would, in any event, be a public meeting. I would encourage anyone who would want to come forward.

Mr. Chairman: They could be on the list, or you could notify them, whichever—

Mr. Bailie: If you like, I will take it upon myself to make them aware of the dates once they are known.

Mr. Chairman: Would you, please? Thank you.

Are there any other questions that members have of Mr. Bailie, Miss Wells or Mr. Stewart? No? Thank you very much. We will have to wait to see what happens in the big room next door.

Mr. Bailie: We will await word. Thank you.

Mr. Chairman: Members, I think what we should do is probably have a discussion on one or two matters in camera. I am going to ask that we go in

camera for just a few minutes, after which we can adjourn. The formal part of this meeting of the standing committee on the Legislative Assembly is adjourned.

The committee continued in camera at 4:10 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ORGANIZATION

WEDNESDAY, FEBRUARY 8, 1989

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)
VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)
Breaugh, Michael J. (Oshawa NDP)
Hampton, Howard (Rainy River NDP)
Johnson, Jack (Wellington PC)
Matrundola, Gino (Willowdale L)
McClelland, Carman (Brampton North L)
Morin, Gilles E. (Carleton East L)
Sterling, Norman W. (Carleton PC)
Stoner, Norah (Durham West L)
Sullivan, Barbara (Halton Centre L)

Substitution:

Neumann, David E. (Brantford L) for Mrs. Stoner

Clerk: Forsyth, Smirle

Staff:

McLellan, Ray, Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, February 8, 1989

The committee met at 3:39 p.m. in room 228.

ORGANIZATION

Mr. Chairman: I call this meeting of the standing committee on the Legislative Assembly to order. We have essentially only one matter on the agenda, and then we will go in camera and discuss another matter.

You have before you a recommendation for an ad which the clerk has drafted following our meeting last week, where we discussed this. Does anyone here have any comments with regard to the recommendation the clerk has put before us?

Mr. Breaugh: A motion to accept the ad is outlined here. We can fill in the appropriate dates later if we follow option 3 in terms of advertising.

Mr. Chairman: Yes.

Mr. J. M. Johnson: Could we start by using this ad as one that we could maybe use on the television channel?

Clerk of the Committee: Something similar can be put on.

Mr. J. M. Johnson: Yes, not with the same message. Why do we not try to see if they can work it in, give them something to experiment with?

Mr. Chairman: Okay. The clerk could speak with the proper authorities on that to see if we cannot get that included.

Mrs. Sullivan: I will second Mr. Breaugh's motion, if you need that.

Mr. Chairman: I do not need a seconder in committee, but thank you.

Mr. Neumann: I am not a regular member of this committee and I do not know whether this is a standard list that is used by committees for advertising, but other than the Toronto papers, I do not see anything on there that people in our area would read. The Hamilton area is left out, for example. The Brantford Expositor is perhaps too small, but the Hamilton Spectator covers quite a wide area, a major population centre—

Mr. Chairman: So what you would like is Brantford—

Mr. Neumann: —comparable in size to London and Ottawa.

Mr. Chairman: What particular criteria were used here?

Clerk of the Committee: I asked the advertising agency to put together a recommendation of newspapers that would cover most of the major areas. For example, Metropolitan Toronto newspapers are received in a wide area and this is what they came back with recommending, but there is nothing to prevent us from putting the Hamilton Spectator in, if that is—I do not think the costs would be significant.

Mr. Breough: You know what I would like to do? I would like to see us finally get a reasonable short list so that we do not go through this stupid argument every time a committee decides it has to give notice. I would be happy to do this, with any amendments that anyone wants to put in, but I think it would be worth while if the committee went through the exercise of developing a short list for advertising purposes for notices for committee and suggested to other committees that this is an appropriate way to reach the vast majority of people in Ontario, so that the cost for notices is relatively the same. I think that would be useful.

The problem with doing what we usually do is that, as Mr. Neumann says, "I'd like my local paper put in," and I say, "I'd like mine in," Mr. Johnson would like one of his in, Mrs. Sullivan has got somebody over there, and there is not much rhyme nor reason to it.

As I read through the list, it seems to me that this is a reasonable distribution of daily newspapers of substantial circulation that would hit most of the geography of Ontario, so I do not have any problem with that, but it seems to me this would be the appropriate committee to develop the short list of—kind of a note that this would meet your minimum notice provisions.

Mr. Chairman: I appreciate those comments. I mean, the Hamilton Spectator is one. I notice the Kitchener-Waterloo Record is not in there either, which has a fairly large circulation.

Mr. Breough: The Oshawa Times is not in there either, and it has a tremendous circulation.

Mr. Chairman: Yes. I do not know how they pick these. That is the whole thing.

Mr. Breough: Geography.

Mrs. Sullivan: I think that if this was an advertising agency recommendation, they would have selected these newspapers based on the target circulation of those areas. Indeed there are substantial areas of population that are left out that are not covered. Peterborough is another example, and Kitchener, I note.

I wonder if we simply ought to go back to the old standard, even though I did second the motion which was not a necessary second, and just place them in all of the English papers and the one French-language paper in the province.

Mr. Chairman: Any idea what that would cost?

Mrs. Sullivan: It would be \$26,000. It is alternative 1.

Mr. Chairman: Oh, yes. We have a motion to adopt number 3. We can have a vote on it and, if it carries, then we will go with number 3, and if it does not, then we can have another motion, or alternatively, it is up to the mover: If he wants to withdraw it, then he can; if he still wants to have a vote, we can go ahead with that. Mr. Breough, do you have any thoughts on this?

Mr. Breough: If there is some feeling that you would like to go through the broader distribution, let's go to the first recommendation, but then I would still like the other matter kept on the committee's agenda so that we might do that in the future.

Mr. Chairman: Okay. I will ask the clerk, then, to put that on a future agenda so that we can come forth with maybe some options on that, all the newspapers and circulations and so forth across the province.

We have a motion, then, by Mr. Breaugh that we proceed with the Election Act advertising and so forth based on recommendation 1, which would cost \$26,000.

All those in favour?

Opposed?

Motion agreed to.

Mr. Breaugh: What do you have in mind for dates? Are you thinking the last two weeks or the last three weeks of March?

Mr. Chairman: I was thinking that if we have enough work to do, obviously we should try to get as much done as possible and try three weeks. I think we should press ahead with three weeks. If we find we do not need that last week we should—

Mr. Breaugh: So the dates advertised would begin the week of March 20 and conclude in the week of April 3.

Mr. Chairman: That is right. I was thinking we would do the hearings in one week or in a week and a half or something, however best we could fit it in depending on the responses to the ads. Then, after that we could sit down and go through the recommendations to the act and make changes as we see fit.

Mr. J. M. Johnson: Mr. Chairman, as I mentioned—I do not know about Norm; he can speak for himself—but our caucus has tentatively set that week as a caucus retreat.

Mr. Chairman: Which one is that?

Mr. J. M. Johnson: The week of April 3. It is liable to be two or three days. Norm, are you tied in?

Mr. Sterling: I do not know if I will be here at all for any of the time. I do not know which day we decided, but it was during the week of April 3 that we were going to do something.

Mr. Chairman: But it might be just toward the latter part of the week.

Mr. Sterling: When you advertise you just say it is starting on such-and-such a day.

Mr. Breaugh: I think we have a caucus meeting in the first week of April, too. If the ad were to read that the hearings would start the week of March 20, probably the Tuesday, Wednesday and Thursday of that week, we would still have another week if the hearing process went over into that, and if we had to kind of shift dates around to accommodate a caucus meeting we could do that easily.

Mr. Chairman: That is fine. I think the committee can exercise flexibility a little later on.

Mr. Campbell: I have two concerns following that. One is that it has been brought to my attention that there are three different break weeks for school boards across Ontario. I do not know how many people here are affected. I know I am affected on March 20 because our school board is March 20 and not March 13. That means some difficulty for me, but I probably could work around my schedule. I am concerned, though, if we start advertising for people who also might be on school break on March 20 who have to come back to testify for the committee.

Mr. Breaugh: Or they can come the following week.

Mr. Campbell: I was going to suggest that if that is the clarification, then in fact it would be flexible enough to schedule. I still think, though, that we should have enough time to schedule our meetings for dealing with the report and that sort of thing with some flexibility as well, along with those other caucuses that may be meeting. If that is in order, perhaps, Mr. Chairman, you will take that under advisement and we can proceed on that basis.

Mrs. Sullivan: A lot of the people who might want to comment on some of the issues who would be before the committee would be people who have been serving in a volunteer capacity with political parties or community associations that might have something to say about the Election Act and peripheral matters. Do committees ever sit at night to accommodate that kind of intervention when there is a volunteer rather than a professional organization?

Mr. Chairman: We have sat at night to accommodate. There were requests of that nature.

Mrs. Sullivan: We might want to consider that or let people know that we would be willing to do that if necessary.

Mr. Sterling: I suggest you do not offer that too openly.

Mr. Breaugh: You mean like a secret public hearing?

Mr. Campbell: That is a novel approach.

Mr. Chairman: Your comments are well taken. Any other concerns or suggestions? We will proceed on that basis. I do not believe we will need a motion on that. Is there anything else, Clerk, aside from going in camera? That is it.

The committee continued in camera at 3:49 p.m.

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

REVIEW OF ELECTION LAWS AND PROCESS

MONDAY, APRIL 10, 1989

Morning Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)

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Morin, Gilles E. (Carleton East L)

Sterling, Norman W. (Carleton PC)

Stoner, Norah (Durham West L)

Sullivan, Barbara (Halton Centre L)

Substitutions:

Mahoney, Steven W. (Mississauga West L) for Mrs. Sullivan

Miller, Gordon I. (Norfolk L) for Mrs. Stoner

Also taking part:

Grier, Ruth A. (Etobicoke-Lakeshore NDP)

Clerk: Forsyth, Smirle

Witnesses:

From the Office of the Chief Election Officer:

Bailie, Warren R., Chief Election Officer

Stewart, Alan, Special Adviser (Legal)

From the Barrier-Free Design Centre:

Adams, Anne E., Executive Director

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Monday, April 10, 1989

The committee met at 10:19 a.m. in room 151.

REVIEW OF ELECTION LAWS AND PROCESS

Mr. Chairman: I call this meeting of the standing committee on the Legislative Assembly to order.

Members will recall that on March 2 of this year, the government House leader submitted an order to the Legislature. I want to quote that:

"That the standing committee on the Legislative Assembly be authorized to undertake a comprehensive review of the report of the chief election officer including recommended legislative changes 1988...and other areas related to the election process and report to the House its observations and recommendations thereon following public meetings for the hearing of representations of interested persons, and that the chief election officer provide such assistance to the committee as may be required by the committee to discharge its duties."

As a result of that, we scheduled the meetings for today, tomorrow and Wednesday, at which time we will be hearing various representations. The first person we have this morning is the chief election officer, Warren Bailie. He is going to brief us on some changes that might be made. Mr. Bailie, do you want to come forward with your sore arm and your assistants?

Mr. Breaugh: Let's get it out of the way: Give us the explanation first.

Mr. Sterling: You should see the other guy. That is the explanation.

Mr. Chairman: You have to deal with the important matters.

Mr. Bailie: Actually, it is one of those operations, I guess, that are necessary in old age. It is called the carpal tunnel syndrome. It is a very minor operation that is often done in the doctor's office, so it is not too serious. Thank you.

CHIEF ELECTION OFFICER

Mr. Bailie: I would like to introduce again my special legal adviser, Alan Stewart, on my right. Mary Cacciaccarro is the administrative assistant, and behind me is our new information officer, Michel Côté, who is assisting me today.

I am pleased to have this opportunity to address the committee today. I believe that regular review of our election laws is highly desirable, and your committee is playing a very important part in this process. I want to thank you for the concern you and your committee have shown in this subject. My formal recommendations to your committee are contained in my 1988 report, copies of which you have before you.

They follow a philosophy evolved over the years in Ontario, which is

that election laws, procedures and officials exist to make the right to vote effective. If there is a proposed change that would allow people to vote when they would otherwise be unable to, then that reform should be seriously considered. The purpose of election administration is not to build a maze of restrictive rules and procedures to maximize the number of ways an elector can lose his right to vote; it is to increase the opportunities to exercise that right.

At the same time, anyone who supervises elections must always keep in mind that in making voting easier, we must not sacrifice the integrity of our system. No change should be adopted which opens the doors for impersonation, fraud or other abuses. If we compromise the integrity of the system, then we destroy everyone's right to an effective vote.

Voter registration is a subject that is important. There is one possible change to our system which was not discussed at length in my report but which seems to be of interest to members of this committee and members of the public. Sometimes it is referred to as voter registration. From your experience as candidates, you will be aware of problems with our current system of compiling lists of electors through enumeration: missed buildings, missed streets, people out when the enumerators call and out again when they call back and so forth. Because of these problems, some people have a frustration with our current system.

I must advise you that in my opinion a move away from enumeration during the election period is not a solution at all. In the past, others have come to this same conclusion after studying the matter. As far back as 1934, the federal government enacted a law to provide for a so-called permanent list—I say "so-called" because what is permanent today is, to some degree, out of date tomorrow—to be revised during a period of six weeks of each year.

The idea was dropped after one election because of the inaccuracy of the list. A special committee of the House concluded that for the idea to work, it would require continuous registration, a large staff of permanent officials and an annual house-to-house check of the names on the list. The cost of all of this would be, in their opinion, prohibitive.

I suggest that these conclusions are still valid 50 years later, even in an age of computerization. In 1968 Nelson Castonguay, the federal representation commissioner, submitted his report to the House on methods of registration of electors. He warned that a system of continuous electoral rolls, as adapted to Canada, would be very costly because of the same factors cited by the House of Commons in 1937.

In 1979, the Law Reform Commission of Manitoba submitted its report, requested by the Attorney General, on the so-called perpetual voters' list. The commission recognized the problems of enumeration, calling it "an administrative nightmare" for the chief electoral officer, but after reviewing the alternatives it was still recommended that the enumeration procedure be maintained.

The present system in British Columbia demonstrates why a system of registration should not be considered as a replacement for enumeration. British Columbia has a registration system and a permanent register of voters in each electoral district, but in order to ensure the accuracy of the list the province also has an enumeration in the second calendar year after each general election. The enumeration is necessary in order to conclude the names of those who just do not get around to registering and also in order to purge the list of names that should no longer be on the list.

To ensure the integrity of the process, it is equally important to have some mechanism between elections to take names off the list as it is to ensure that the right names go on. The chief electoral officer of British Columbia has declared that, in his opinion, it is necessary to have the option of an additional enumeration at the beginning of each election period to ensure the completeness and the accuracy of the list.

Voter registration systems are certainly not regarded as a solution to any problem in the United States' elections where they are often blamed for the problem of low turnouts in elections. In fact, the most recent study of the subject, *Why Americans Don't Vote*, named the voluntary registration system as the single largest contributing factor to the distressingly low turnout in American elections.

If the members of the committee wish to consider a voter registration system, you should be aware that, as expensive as such a system would be, it will not achieve the same degree of accuracy that our present enumeration system already has. While I acknowledge the difficulties of our current system, I cannot recommend a registration system either as a way to get more accurate lists or on a cost-benefit basis.

Additions on election day: This is a fairly important subject, which I have recommended in my report be considered. The most beneficial direction to take here in Ontario is to concentrate on improving the list during the election period. It is not really important whether you are on the list two years before the election or one year before, as long as you are on the list and able to vote on election day.

One of the specific recommendations in my report is that the electors who have not gotten on the list by election day should be able to be added on election day itself. I am sure that, as candidates, all of you have experienced the frustration that electors in urban polling divisions feel when they go to vote, find that they are not on the voters' list and discover that there is no way they can vote unless they can show that they were enumerated and left off in a typographical error.

The current act allows electors in polling divisions designated "rural" to be vouched for by an elector on the list in the same polling division. An obvious question of fairness arises in that this privilege is extended to rural electors but not to urban electors. It is questionable whether this distinction in treatment between urban and rural electors is consistent with the Charter of Rights and Freedoms. I am advised that our vouching provisions could probably withstand a legal challenge. The real objection to the vouching provision is that the justifications for it in the past no longer apply.

1030

Until 1969, there was only one enumerator in rural polling divisions in Ontario. In 1969, the select committee on election laws recommended going to a two-enumerator system in rural areas and ending rural vouching at the same time. However, in the committee's third report, in 1970, it reconsidered the question and recommended that rural vouching be retained as a safeguard until the two-enumerator system proved itself in rural electoral divisions.

In my opinion, the greatest problems in getting accurate lists now occur in cities, not in rural areas. A historic reason for allowing rural vouching is the belief that rural communities are more stable in population, less transient and so forth, so that a rural elector is more likely to know who his

neighbours are and be able to vouch for them. I am not sure, however, that such a difference in the usefulness of vouching in different areas can justify restricting it to one part of the population.

I would recommend that you consider changing the rules for vouching as they currently stand. You could do this either by eliminating additions to the list on election day entirely, so it is the same for rural and urban, or by extending it to urban voters as well. I would favour the latter. I believe that we should be seeking to make it easier for electors to exercise their franchise rather than more difficult.

Some members may be concerned about the possibility of abuse. There are a number of reasons which lead me to believe that additions to a list on election day can work. First is the experience of other provinces. In Alberta, an eligible elector may vote if he produces a driver's licence, health insurance card or senior citizen's identification and takes and signs a prescribed oath at the poll. In Saskatchewan, a person whose name is not on the voters' list may vote after making a written declaration.

In Manitoba, a qualified person may be added if he signs an oath and produces two documents which provide evidence of his identity satisfactory to the deputy returning officer. I studied Manitoba's procedures closely during the last two general elections and was impressed with the working of its system. In New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland, a person may be added to a list on election day upon taking an oath and, in some cases, satisfying a revising officer as to his eligibility.

There are certain safeguards I would recommend. First, applications for additions should be made to the deputy returning officer, who will often be a resident of the polling division and will be sitting right in or close to the area where the elector claims to reside. The application should not be made to the returning officer, who is far removed from the situation.

Second, there should be no automatic right to be added to the list merely by taking a certain oath or producing certain forms of identification. It is up to the elector to satisfy the deputy returning officer as to his identity and his residence. If he satisfies the deputy returning officer, he gets on the list.

Third, electors should be required to sign an affidavit of eligibility instead of only taking the oral oath, which is the procedure we have now in the rural areas. I am not at all uncomfortable with the idea that it is just a little bit difficult to get on the list if you wait until election day. I would be quite happy to have it known that it is a little inconvenient to be added to the list on election day.

I would not want people to say, "I won't bother to check to see if my name is on the list, because if it is not, I can always wait until election day." If too many people wait until the last minute, then the demands on our system may be too great for the additions on election day to work well. Additions to the list on election day should be an opportunity of last resort. It is interesting to note that in the 1988 Manitoba elections four per cent of the total names on the list were sworn in at the polls on election day, so we are not talking about a lot of people.

Proxy voting: There are now seven categories of electors who are entitled to vote by proxy. At one time only mariners, as they were called, could vote by proxy in Ontario. In 1969, three more groups were added,

including other transportation workers, members of the armed forces and persons certified by a doctor to be physically incapable of attending a polling place. In 1971, students attending an educational institution were added to the list and in 1984, persons absent because of business commitments or participation in job retraining programs were added.

Considering the list of people who are allowed to vote by proxy, it is difficult to justify not including some other group. People absent from the province on vacation, for example, may not vote by proxy. I recommend that an elector who believes for any reason that he will be unable to vote on any of the advance poll days and at the polling place on election day be eligible to vote by proxy.

Proxy voting has worked well in Ontario. Electors like to exercise their franchise personally, and so will only vote by proxy if it is impossible for them to get to either the advanced polls or the ordinary polls on election day. This keeps the number of proxy requests low and allows us to require that every person appointed as a proxy voter must present the application to vote by proxy to the returning officer or a revision assistant.

No elector may act as a proxy for more than two electors. Furthermore, any person who appoints a proxy for reward or unduly solicits an appointment as a proxy is guilty of a corrupt practice. These provisions protect against the abuse of the proxy system.

Enumeration: In every election we experience problems with the process of enumeration, particularly in Toronto and the metropolitan areas. Returning officers have difficulty in finding adequate numbers of competent enumerators. At present, candidates have the responsibility of furnishing the returning officer with a list of nominations for appointment as enumerators. The purpose of this is to protect the integrity of the list of electors by ensuring that it is compiled jointly by two people of different political interests.

There have been suggestions by returning officers—in fact, I would say strong recommendations by some—that this system be changed, that the returning officer now have the primary responsibility for recruiting enumerators. I do not personally like the idea. I still think, as it is presently envisaged in the act, that candidates recommending a sufficient number of competent enumerators would work best for our system. But we also know that at election time candidates are very busy and they have a lot of other things they are trying to do.

I guess this is a decision that clearly must come from candidates who have got elected and can be considered more experienced than candidates generally. They would have to advise us on that. The current system can work well when candidates take seriously their responsibility to find and nominate sufficient, capable enumerators. It is when candidates fail to do this that the system breaks down.

We have an additional difficulty in discussing this matter with returning officers in urban areas. The majority of them are of the opinion the system should be changed. However, the very next day we might have a meeting of returning officers, say, from eastern Ontario and they just cannot understand what we are talking about. They say: "What do you mean? We do not have any problem getting the names. For us to start doing that kind of work, finding somebody from each one of these polling stations, would be quite a task."

When we checked with them, particularly at one meeting where I asked,

the lists that they were getting were 99 to 100 per cent full and accurate. So they were just aghast at our even considering a change in it because that would mean that they would have to have staff on hand to find all these competent people who lived ideally in each of these polling divisions. So we do not have a firm recommendation on this. I am just bringing to your attention the problem as we see it.

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For these reasons, I am proposing changes to the act to require candidates to notify the returning officer one week before the enumeration begins of how many enumerators they intend to nominate and for which polling divisions.

Some of our candidates traditionally, for years now, would say to the returning officer: "Look, we're not going to recommend enumerators or poll officials. You go ahead and find them and we'll release you from the responsibility of checking with us." That is a decision they make, and I guess what we are saying here is that we should just have notice of this decision a few days ahead of time so that the returning officer would have time.

Under the present act, if I were to show you the calendar, by the time the returning officer has to wait until the candidate has failed to make the nominations, there is very little time for him to get on with finding them himself. We need an adjustment there in the timing if we are going to continue with the present system. Returning officers would then have four additional days in which to recruit and train people to fill the gaps in the candidate's list. With this change, enumeration in Ontario should be more thorough than in the past.

General: There are a number of additional recommendations in my report. I will not comment on them in detail, but I wish to just mention some of them for you.

I have recommended that the list of electors no longer be posted in public in order to respect the privacy of electors. We have had a lot of complaints, and I am sure you have as candidates and members. It seems inconceivable that some people have nothing more to do than wait until the lists go up in the poll and they start harassing, especially women living alone.

I found it hard to believe that this would be the case, but I actually phoned a police station and asked the detective sergeant said: "Mr. Baillie, we know when the lists go up on the posts, because we start getting complaints almost within the hour. Then we have a constable check. He'll go out and say, 'Yes, the first lists are up on the posts.'" So it is really true, and the need for them to go up on the posts is not as great as it was in earlier days, although it is one of the checks and balances of our system.

You are going to have to consider that fairly carefully, because there was a very good reason for putting them up there, which was that the public was asked to take some responsibility, take a look at the list, advise us of names that were on there of people who had perhaps moved out of the province or had gone to their reward, and mistakes in the spelling of names, which might cause someone to have difficulty finding his name on the list because the first letter of his last name was misspelled, putting him at, shall we say, the wrong end of the list. It was a good help to us, but it does seem to be a serious problem, especially in metropolitan areas.

Considering the appointment of poll officials, returning officers should have more time to fill the gaps in the list of appointments submitted by the candidates. In addition, returning officers should not be required to appoint as a poll official any person they do not believe to be capable of adequately performing the duties of a poll official. Returning officers eventually have to accept the responsibility for the work of deputy returning officers, and we are just suggesting that you should make sure they have the authority to fail to appoint someone if, in their opinion, he could not handle the job.

In addition to the areas covered in my report, there are four areas I want to touch on briefly: voting by the homeless, accessibility, prisoners' voting and Ontarians abroad.

The homeless: The problem of voting by the homeless has been an increasing concern. Homelessness is a severe social problem and assisting the homeless to get their vote is a worthwhile goal. The rules of residence in the act were written in an earlier day when it was assumed that all electors would have a fixed address. That assumption is out of line with present-day realities.

In designing a system to recognize the democratic rights of the homeless, the danger of opening the door to voting fraud must be kept in mind. Let me make it clear it is not the voting fraud by the homeless that I fear; I am concerned about other unscrupulous individuals taking advantage of any system where people can vote in any riding they want, at as many locations as they can physically get to and without giving a specific verifiable address. I am talking again about some of the checks and balances that were put in the act to avoid election fraud.

I understand Mr. Shapcott will be appearing before you on behalf of the Toronto Christian Resource Centre to continue his good work on behalf of the homeless. His recommendation that community centres be accepted as legal residences appears to be worthy of consideration.

There are some points about which further information would be helpful. How is a list of approved community centres across the province to be drawn up, and by whom? Do employees of the community centres verify that electors who claim the centre's address actually have some connection to it, such as receiving mail and/or storing belongings there, or is the procedure completely open-ended, in other words, just saying: "There is the community centre. I have noted the address and I am using that for my registration"? I have some reservations about any plan that would allow anyone in Ontario to be added to the list without any way of verifying that he has any connection with the address he is claiming as his residence.

Accessibility: For as long as I have been associated with the election office, beginning under my predecessor, Roderick Lewis, the office has strongly believed that polling places should be accessible to all electors, including, of course, the disabled. The Election Act requires that all advance poll locations provide level access to wheelchairs. In addition, we urge returning officers to do whatever is "reasonably possible"—these are the words in the act—to select polling locations that are accessible to wheelchairs.

Our accessibility audit—and we have done a very careful audit of the last election—shows that 65 per cent of the polling places were wheelchair accessible. This percentage rises from election to election, and we intend to ensure that it continues to rise.

As a practical matter, it would be unwise to amend the act to require that every polling place provide level access. It would be so easy for me to say, "That is my commitment, and if that is your commitment, let's just put it in the act." However, I have actually been a deputy returning officer and a returning officer myself, and I have experienced that, all of a sudden, a gas line had a leak in it and someone started digging up the sidewalk in front of a poll with good, level access that we had lined up, let's say, weeks ahead of time. We were faced with moving it somewhere else close, to a location that is less than desirable.

These things will happen and they do happen. So to make it a rule that they all have to be accessible, until we have some rule that all buildings are accessible, just will not fly. This is an area in which we expect to continue making progress, and we certainly have a commitment in this regard.

Prisoners' voting: Section 16 of the Election Act disqualifies inmates under sentence of imprisonment from voting. On July 18, 1988, the Ontario High Court declared this provision to be inconsistent with the Charter of Rights and of no force and effect. The judgement left to the Legislature the task of providing the appropriate mechanism by which convicted prisoners may exercise their franchise.

In order to respect this decision, members of my staff have co-operated with the officials of the Ministry of the Attorney General and the Ministry of Correctional Services to determine a form of voting for prisoners. Proxy voting seems to be the most appropriate for prison inmates. I suggest that thousands of prisoners in the Kingston and The Islands riding, for example, do not become residents of that riding for electoral purposes merely because they are temporarily incarcerated there. They should be put on the list at their permanent residence and vote in the riding by proxy like any other citizen who is unable to attend the polling place in person.

There is one complicating factor you should be aware of. In the last federal election, applications were brought in Manitoba and Ontario to have federal law disqualifying inmates in federal elections declared unconstitutional.

Madam Justice Van Camp decided that federal law did not violate the charter. A judge at the same level in Manitoba found that it did. However, that decision was then reversed in the Manitoba Court of Appeal. Decision has been reserved on an application to the Supreme Court of Canada for leave to appeal. If the Supreme Court declares itself on this issue, the Legislature will know to what extent any disqualification of inmates can be justified under the charter. For now, however, the decision about how our act stands leaves inmates with the right to vote but with no mechanism for voting.

1050

Overseas voters: This is another matter which is a concern and is being addressed at the federal level in two or three reports. I am going to ask Alan Stewart, if he will, to give you our comments on that. He has been doing most of the research on it.

Mr. Stewart: At present, the voters who are temporarily outside Ontario can vote in provincial elections only by proxy: that is, they must have a residence in Ontario at which they can be enumerated, they must be able to designate a person in that electoral district whom they wish to have vote for them as their proxy, and they must fall within one of the categories for

which proxy voting is allowed, that is, absence because of business commitments or employer's directions.

At the federal level, some electors absent from Ontario may vote through the federal special voting rules. They are Canadian forces members, members of the public service such as those in the diplomatic service and their dependants. These votes are cast nine to 14 days before the election and they are counted on the Wednesday before polling day by special returning officers, with scrutineers from opposing political interests present. The results are then transmitted to the chief electoral officer and added to the results in the various electoral districts.

The federal procedures, however, are not easily adapted for our use because they require the imposition of legal duties upon the federal Minister of National Defence, federal defence officials and members of the federal public service abroad which the province of Ontario simply is not empowered to do.

In 1987, the federal government introduced Bill C-79, which would have allowed Canadian citizens residing outside Canada to be included in a registry of voters if they intend to return to Canada and are unable to vote by proxy. The electors on the registry are sent a blank ballot by mail and they vote by writing the name of the candidate or party on it. The ballot is then put into an inner envelope to preserve confidentiality. The inner envelope is put into an outer envelope with the elector's name and the necessary administrative information on it. The ballot paper is then mailed to the chief electoral officer or delivered to a Canadian embassy or armed forces base.

Bill C-79, with these provisions, was not acted upon before the 1988 election, but we may expect that proposals of this kind will be brought up again at the federal level.

More recently, the government of Quebec has recommended a similar registry system, a system very similar to the federal system, for all electors outside Quebec in its Bill 104. If you have been outside Quebec for less than 10 years and intend to return to Quebec, you must file an application with the chief electoral officer indicating the address of your prior residence in Quebec, your present residence abroad, proof of your identity and a declaration of intent to return to Quebec. This registration must be renewed every year and an elector who does not respond to a notice is struck off the registry.

The way it works is that by the 14th day before an election, the chief electoral officer sends each elector on the registry a ballot, a set of inner and outer envelopes and names of places where lists of candidates may be consulted and where ballots may be returned. The ballot must be transmitted to the chief electoral officer by the close of the polls on election day in order to be counted.

If members of the committee feel that the current proxy system or a revised proxy system is inadequate for electors overseas, then a registry system along these lines may be one to consider.

Finally, a few comments about the Charter of Rights. At the wise suggestion of Mr. Breaugh some time ago, we have obtained an opinion from the constitutional law and policy division of the Ministry of the Attorney General reviewing the Election Act in order to identify possible future conflicts with the Charter of Rights and Freedoms so that these areas may be eliminated. This

is especially of concern because there are some potential violations of the charter which may not come to light until very late in an election, such as on election day itself, when it is too late to get judicial relief.

Only three areas of potential conflict with the charter have been identified. One is prisoner voting, which the chief election officer just discussed. The second is proxy voting. The charter's guarantee of the right to vote may impose a duty to provide some form of absentee balloting. The extension of the right to vote by proxy to anyone who believes that he would be unable to vote at the advance poll and on election day, as recommended by the chief election officer, would eliminate any potential conflict.

If, however, the Legislature decides not to extend the right of proxy voting so far, the existing rules could be defended as demonstrably justifiable limits on the right to vote, justified by the desire to have voters vote personally wherever possible and to prevent proxy voting from becoming so widespread as to be open to abuse.

The final area of potential conflict concerns the provisions of subsection 26(5) and is somewhat technical. This subsection disqualifies any person from being a candidate at an election if he has been found guilty within eight years of the election of a corrupt practice or an offence relating to an election. This provision is a prima facie violation of section 3 of the charter, which guarantees the right of every citizen to be a candidate. As such, it can be justified only if it is, under section 1, a reasonable limit that can be demonstrably justified in a free and democratic society.

The purpose of this disqualification is to deter and punish corrupt election practices, which is undoubtedly a compelling legislative objective under the charter. However, the proportionality test of section 1 demands that restrictions upon being a candidate must be carefully tailored to infringe upon the right to be a candidate to the minimum degree necessary to achieve the objective.

As there is a different section of the act, section 97, which also deals with restrictions on being a candidate and which allows a judge to exempt a person convicted of the disabilities and penalties if the judge finds that the person who is being convicted has committed the act without any corrupt intent, as that separate section exists, the feeling of the opinion is that that section is better tailored to achieve the objective and should be preferred to subsection 26(5).

By the way, you might wonder how you can be convicted of an act in law and yet found to be without corrupt intent. Cases in the field of election law indicate that this rule is meant to apply where a person commits an offence in relation to an election and does so willingly and intentionally and knows, or should have known, that under the act it was an offence, but did not have a desire to corrupt the election process or change the results of an election or bring about a false result.

The charter can be adhered to then if subsection 26(5) is repealed and section 97 is left to govern the matter. This was essentially the recommendation of the chief election officer in his report of last year, found at page 7.

Those are the areas of potential charter concern that were identified in the opinion, and that concludes those remarks.

Mr. Chairman: Thank you very much, Mr. Bailie and Mr. Stewart. Members, I am sure, will have questions. If you want to ask questions, this is an appropriate time to do so.

Mr. Campbell: I would like to touch on a couple of areas that I think we have discussed before, since they are in more of a formal format, or proposed amendments. The two areas of my concern are not so much with the enumeration process. While it is imperfect, I think the vast majority of the time it works. My concern is the process of additions for people who find themselves, even as late as election day, off the list.

1100

The other concern I have dealing with that, of course, is the homeless who perhaps do not have two pieces of identification, who do not have a residence in the meaning of the act, and also may not be able to be identified until election day. I think we would not have as much problem with complaints against the enumeration if the addition process were, by identification, simpler right up until almost the close of polls.

I am concerned about the fact that you say both enumerators and deputy returning officers reside in or are familiar with the polls they are working in. In a large number of cases, in the number of elections I have worked, there are always parts of the riding that are fill-in polls; somebody does not show in one area and people are moved about. Along with that, you have people who voted early in the advance poll and who are returning officers and all of a sudden they are shifted so they cannot vote in their own home poll but that was after the advance poll closed. I do not know if you fix that by voting at the election office when somebody gets notice. But I am still concerned about that because some election workers have been disfranchised just because somebody did not show up at the poll and you had to rush somebody else in and did not have an opportunity to do that, or somebody on a standby list who has been called.

I think if you were to deal with the additions and deal with people who were, for example, away on holiday or for some reason were absent for all or part of the campaign period, that some sort of voting process be set up for them, and that even though you do not have the list ready their name appears somewhere and they have an envelope-within-an-envelope style of voting so that those votes can be counted and not disfranchised.

Dealing with the overseas voter, I wonder how much of the American system you have considered. I realize the American system is a registration system and that the Democrats or Republicans abroad would be more proactive in going to their embassies and swearing an affidavit saying that they were in fact citizens and they were eligible to vote; very simply doing that, have a notary do that.

There are two problems with that. One is that you never see the list of absentee voters in a campaign. The candidates never get to contact those voters, I guess because the time period is so broad in trying to get the list back and the material to those voters.

Mr. Chairman: May I just interrupt for a moment? I just want to clarify to the committee that if you have questions of Mr. Bailie or Mr. Stewart regarding their comments, we could have questions. I do not want to get into a debate of different things at this time, because we are going to have a number of other presentations, including one at 11:15 a.m., and then we

are going to have additional ones this afternoon and tomorrow, and then on Wednesday we are going to get into discussing the act. If we can just limit ourselves to short questions for clarification of what Mr. Bailie and Mr. Stewart have said, that would help us expedite the hearings this morning. Mr. Campbell, if you could just zero in on that, then we have other questioners.

Mr. Campbell: I will wind up. This agenda I had said "review." I was not sure if that was debating time. My apologies. Let me just finish this thought and I will wrap it up. Dealing with lists and having the results, or having people know they are in fact eligible to vote; those would be my concerns. Thank you, Mr. Chairman.

Mr. Bailie: I would like to just comment on what the vice-chairman has said. I agree, and he has certainly demonstrated a very good sensitivity to the concerns we have and I think the general public has. All of those concerns you have expressed I think can be addressed in the proposals we have.

Mr. Breagh: You did not say very much about returning officers, one of my pet peeves. I think a lot of our problems stem from the fact that our returning officers disappear on us between elections. How much value would there be in making that a somewhat more permanent position so that at least there was someone working between elections to develop information, perhaps do some training and just, to be blunt about it, be a little more familiar with the act when the election is actually called? I find one of the most frustrating things is that the person who is locally in charge of the election does not know the law. Can we do some work in that area that might resolve some of the problems all of us get into?

Mr. Bailie: As a matter of fact, I think that is a good suggestion. The reason I did not mention it here is that it is not a technically complex subject. My answer quite frankly is just yes to exactly what you have said. We would have to change the act and the legislators would have to appreciate that we would be talking about another kind of a cost factor, but nothing would please me more than to have a little more time to train, year by year and so forth, but the way the act is presently worded it does not really suggest that. If fees could be established to cover this additional time they would spend and we could review their understanding of the act, my answer is a straightforward yes to each one of your concerns.

Mr. Breagh: One of the concerns that I have, which you have touched on a little bit, is that when we go through this process—and you are giving us a pretty good defence for maintaining roughly what we do now as opposed to changing to a registration system; I do not have an objection to that—it is amateur night. No one who conducts the enumeration process is a professional in the field. To give you the qualifications to become an enumerator means that you must be able to breathe and say your name and that is it. I think we have to do a little more work in that regard.

Let me move to one other area that I have a little problem with. It is this matter about getting people on the list. For most of us in this room saying that you need two other sources of identification is not a problem, but for some people who do not have credit cards and drivers' licences and passports, and there are a lot of those folks around, we have disfranchised them.

I am having a little difficulty with this. Is the problem that we cannot figure out where they are staying tonight? If that is the problem, then I do not think we need a big list of community centres approved throughout Ontario.

It seems to me that we can have some kind of vouching system where the director of the centre or someone who works there could indicate, "Yes, this person is staying here and has been here for three days" or something.

But I am a little bit concerned about doing all of this on election day. That is really where I get into a little problem in my own mind about it. The worst day in the election period to try to do anything, to get people to talk sensibly, calmly, rationally about it all is election day. On any other day during the electoral period it is not always a friendly argument, but it seems you have got a little time on your side to resolve that.

What can we do then to keep that election day jam up to at least a minimum? You were kind of proposing that everybody walk in and produce all of these documents and it will get along just fine. But at most of the polls that I go to there are five or six polling stations in a school gymnasium and it is not exactly the best place to have a discussion. Nobody in that gym at that moment really knows the act very well at all. A lot are there for one day's pay and they do not want to hear all of this noise. All my campaign workers are excited about what they are doing. It is not exactly the best place to do this piece of business. What could we do that would resolve some of these anxieties?

Mr. Bailie: That is a good point too, because I do not disagree at all. What I intended to recommend to the committee was that we do whatever we can to improve our system of adding names to the list, as we have it now—we are not taking anything away—and add one additional thing, that if someone has not gotten on the list, do these other methods of enumeration, special enumeration and revisions at the returning office, and then failing all of those things, if he is still not on the list on election day, rather than losing his vote he would be able to take this affidavit.

We are not talking about eliminating any of the processes that we have now, but adding one more, so hopefully people would not just abandon the present steps that are in place and leave it until election day. That is why, if it sounded as though it was a procedure that had some difficulty, people would then say: "I don't have two or three pieces of identification. I am going to go to the returning office, as I have been advised by the ads of the chief election officer, the week before and make sure I get my name on the list and not wait until election day." That is all I am trying to do, make sure we do not do anything that would lead them to believe they can leave it all until election day and very little identification would be required. We just have the concern that some other unscrupulous people might see that as an advantage to fraudulently affect the results.

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Mr. Breaugh: There are not many Tories left in Ontario.

Mrs. Grier: There are others who are learning their ways.

Mr. Breaugh: Yes, others are learning their ways.

One final point: We do quite a bit now around providing an occasion when a person can cast his ballot other than on election day. It is one of the things that has always perplexed me.

If we said you could shop only one day a week—and we now say that you can shop seven days a week—or if we tried to run a business that was open

only one day every four years, people would say we were insane, and yet we try to do the voting process all on the same day. Are there things that we can and should do that would expand the notion that there is perhaps—I guess it is reasonable to say we do in Ontario now. There is roughly a period of weeks now when you can actually cast your ballot.

Should we look at that as another area that ought to be investigated? In other words, should there be even more occasions than there now are for people to cast their ballots legitimately? Should we do more in the way of advanced polling, proxy votes and things of that nature?

Mr. Bailie: We could not advance the number of days of advanced voting in the returning office because at the present time we have the advanced poll beginning just a day and a half after nominations close. We even have a provision in the act that it may not open because ballots may not be printed. The Legislature may want to consider advancing nomination days, say, until the Monday of that same week rather than the Thursday, and then adding one to two additional days there.

The other advantage of having these days is that, for the homeless—as a particular interest of yours and as expressed by other members—this would be the ideal place for them to vote. They could come in there during that period of what now is nine days and take care of their identification difficulties, if there are any, and vote right in the office and not take the time to get involved with the deputy returning officer on the actual polling day.

Both things could be accomplished by moving the nomination date to the Monday. Then we could add voting on, let's say, Thursday and Friday of that week as well. We could add about two days, maybe three at the most.

Mr. Breaugh: What would be wrong with the notion of saying that you can cast your ballot at the returning office during the electoral period?

Mr. Bailie: That is basically what we do say.

Mr. Breaugh: We are not far off that now.

Mr. Bailie: We are pretty close to actually saying that now, yes.

Mr. Breaugh: Anybody who had difficulty, needed special arrangements, was going to be absent, away from the country at any time during the fixed electoral period, could go to the returning office itself, clarify why he was left off the voters list, provide some brief explanation as to why he will not be around during any of the other advance polls and simply cast his ballot there.

Mr. Bailie: That is, in practice, what we are doing.

Mr. Breaugh: We are pretty close.

Mr. Bailie: Once they have settled their difficulty with either registration or being out of town on polling day, they just cross the office to where the special poll is set up and then actually vote. They have only taken one trip to the poll, as it were, as has any other voter.

Mr. Breaugh: There are a lot of occasions when a person is having some difficulty, whatever it might be, where somebody working for a candidate stumbles upon him at his house. If you had some time, a couple of weeks, to

kind of get it set up, it might be a little easier to make sure that person actually casts a ballot.

Mr. Bailie: In the last election, we even authorized some returning officers who have isolated strip areas like the peninsula rising up there in the Lake Huron area—I forget what it is called.

Mrs. Grier: Grey-Bruce.

Mr. Bailie: The Bruce Peninsula, sorry. We authorized the returning officer there to have a revising officer sit in the advance poll on the three days it was open, so if someone from that somewhat remote area called to ask, "Is my name on the list?" and they found out it was not, instead of being told by the returning officer, "You must come down here to be added," they could be told, "Look, go to the advance poll and there will be a revising officer there." We rent the room and the returning officer makes sure it is a good size so it can accommodate both the revising officer and the advance poll officer.

Mr. Matrundola: Mr. Bailie, I believe you mentioned before that it is up to the elector to satisfy the DRO that he is eligible to vote by providing one, two or three pieces of identification and so forth. I am just concerned that perhaps a returning officer or deputy returning officer might be awfully difficult with a certain person and say: "Well, I am not satisfied. You have not satisfied me; therefore, you are unable to vote."

I would rather see, if possible, that there be one, two or three pieces of identification plus the sworn affidavit, and the penalty for a false affidavit should be quite stiff. It should be posted right in there. The DRO should warn the elector of the danger of signing a false affidavit, the fines and so forth. We know that by law you can go to court on a false affidavit, perjury and so forth, but there should be a specific ruling and fine for election day, because people can go to court and say, "I didn't know," or "I didn't understand," whatever the case may be. There should be a strict fine for that. That would simplify the problem.

I go up and say: "My name is Gino Matrundola. I live at such-and-such address. Here are one or two pieces of identification," sign the affidavit, swear to it, and that is the end of it, streamlining it. That is my comment on that. I have one more question and that is it.

Mr. Bailie: I had similar concerns myself when we were reviewing our recommendations or my talk to you today; I have had similar concerns. I still have concerns on the other hand that we have to make sure that only people who are valid, legitimate voters vote, but I do understand what you are saying. Perhaps if we had a very specific fine for election day registration and the affidavit very carefully set out a warning, that would suffice. It is really a decision that you, the legislators, have to make.

Mr. Matrundola: In my opinion, it should not be a fine of \$100 or \$200; it should be something stiff like \$10,000. People must understand that a false affidavit is perjury and therefore we should make sure that before people sign it, they know very well what they are signing for. For \$100, it would be very easy for someone to say: "Oh, well, it's okay. I'll pay the \$100 if I'm caught." Then some could be investigated perhaps at random to make sure nobody signs a false affidavit. After a few have been convicted of it, I will bet that people will be very careful next time around.

Mr. Breaugh: The fine should apply to nomination meetings, too.

Mr. Matrundola: On the advance polls, I recall specifically on the federal election reading certain things on the advance poll ballot, that only people who could not possibly vote on election day were allowed to vote at the advance polls; in other words, if you were going to be out of town or for whatever reason. There is a specific reason, it appears to me. I do not quite recall whether the same wording is on the advance poll of provincial elections.

Mr. Bailie: No, it is not.

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Mr. Matrundola: So, specifically, anybody can go and vote at the advance poll?

Mr. Bailie: Right.

Mr. Matrundola: For whatever reason or no reason at all, one person decides, "I'm going to vote at the advance poll," and that is it. In other words, the whole electorate could possibly go and vote at the advance polls?

Mr. Bailie: Yes.

Mr. Chairman: Their reason is supposedly that on election day—but there is no way of proving that.

Mr. Bailie: You are not required to give a reason when you get to the advance poll, as you do in the federal election.

Mrs. Grier: I have a particular interest in this topic. As some members may recall, my election day last time around had a number of problems which Mr. Bailie has reported on, intermily any way.

Mr. Chairman: Directly attributable to the elected member, was it not?

Mrs. Grier: No, I was of the opinion it was directly attributable to the returning officer, which is why I wanted to focus on that particular element of Mr. Bailie's report, because one of the things that concerned me during that whole period was Mr. Bailie's comment to me at the time that he had no authority to remove the returning officer other than during the election and that he was merely the co-ordinator of returning officers.

I see, Mr. Bailie, that in your recommendation on page 3 you are changing that in that you are asking for the power to remove returning officers at any time. My problem is that, under the act as it would still stand, the returning officers would still be appointed by the Lieutenant Governor in Council. It would seem to me it would be preferable for the returning officer to be, in effect, an employee of yours rather than appointed by somebody else, and you having the power to remove if cause is proved. I wonder if you would comment on that.

Mr. Bailie: Yes. This would be changing the system that has been in place from the beginning of elections, but I would agree. I have thought a great deal about this as a result of our discussions and even in the last change we added in, with the approval of the legislators, such things as that returning officers must follow the verbal or written orders of the chief election officer. That was not even in the act previously.

I really think—considering the complex situation we have now, and voting is getting more complex all the time because of voting in the office of the returning officer, sending out the cards and another dozen reasons, none of which you have mentioned—it would be a good idea if the returning officers were considered to be employees.

In Quebec, returning officer positions are advertised when they are opened. People have to apply for them. They then must write a civil service type exam to get on to the short list. Then there is a very careful testing of those on the short list. This would increase my responsibilities and my authority, or whoever the chief election officer was, but I do agree that we have got to look at something like that.

Some of these returning officers come to us through a fairly careful selection process, but some of the others, though there was a lot more thought given to the appointment of returning officers under the present administration than previously—

Mrs. Grier: Some returning officers.

Mr. Bailie: Well, the process used by the Cabinet Office, I must say, did respect the responsibilities and problems that we have. The chairman of this committee recommended four people. I interviewed the four people and had to make a recommendation to the Cabinet Office, and it was a little difficult because they were all equally good, too. I was quite pleased to find that they were very much alike in qualifications. I must say that was the most careful process used to choose any of the 130 returning officers. I agree it is now time that the legislators may want to consider a much more careful process of selecting returning officers, because the job is much more complex than it was in the past.

Mrs. Grier: I am glad to hear you agree with that, because I wish it was something you had recommended. It is certainly something I think needs to happen; that there be an advertisement and objective criteria and qualifications established by which returning officers are appointed.

I would like to ask one thing about the enumeration, because, in my opinion, registration in some form is essential. While I recognize that it may be necessary to combine that with an enumeration, which I would prefer to see happen when an election is called, one of my concerns is that in the absence of registration, in every election the enumerators go out with a blank sheet. At least municipally enumerators start with an assessment roll, so that they are merely confirming whether in fact the people are still there or whether something has changed.

What I find most irritates people is that they say: "We just had a municipal or a federal election and I was on the list. Why am I not on it for this particular election? Why don't they know I've always voted? Why didn't they get me this time?"

I wondered if any consideration had been given to a combined registration system whereby people were on a list which was then pulled for federal, municipal and provincial elections and updated by some method. Is that feasible or has it ever been suggested?

Mr. Bailie: Yes, it is feasible. As a matter of fact, the Ministry of Municipal Affairs actually conducted a meeting which I attended, along with the chief electoral officer of Canada, at its Bloor Street offices and we did

discuss this possibility. It would require that the list that is produced by the Ministry of Revenue for municipal elections be updated yearly. Then we could definitely accept the list like that, probably with an enhanced revision system during the election period and even election day additions.

I do not want to quote the chief electoral officer other than to say that he looked at this type of a system with considerable interest as well, because, quite frankly, there is a fair bit of duplication.

One of the problems previously, and to some extent it still exists, was that the qualification of voters is different. A voter in a federal election in Ontario is eligible to vote even though he arrived here only on the day the writ was issued, say from Manitoba, Prince Edward Island or whatever, but in a provincial election the qualification is six months' residence in Ontario. As I understand it, in the municipal elections you merely have to be in the division, whatever it is called, the municipality, some time during the period of the election and be there in order to vote. Those qualifications would then have to become more uniform so that the act could work, because we do have slightly different qualifications.

There is nothing there that would be an impossible stumbling block to eventually having one list for all and it would make our work a lot simpler to have your suggestion in place, where they announce the election and within three days—that is the number of days that Revenue has told me—our returning officers would be handed a voters' list. Then they would be able to start almost from the onset of the election finding their poll officials; they would not be looking for enumerators.

The idea is very attractive. However, we would have to look at just how much we had to do in the way of revision. I think only time would tell there.

Mrs. Grier: One final quick question, if I may, picking up on Mr. Breaugh's point about the need for voting in the returning office to be made easier. I appreciate that you said we are moving in that direction, but do we not still have in the act that one can vote on the 12th, 10th, ninth, eighth, sixth and second day? It is not as broadly open as I think you indicated in your comment.

Mr. Bailie: Actually, taking the powers that I have in subsection 4(7), we have actually added to those number of days.

Mrs. Grier: Oh, I see. Thank you very much.

The Vice-Chairman: If I could, in deference to our next presenter, who is waiting patiently, I will ask the last two speakers I have on my list, Mr. Johnson and Mr. Sterling, to be brief.

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Mr. J. M. Johnson: I will be very brief. Reference has been made to voting in the returning office. My concern is that returning office booths can be far removed from many of the voters, as you mentioned. If we do give consideration to increasing that voting ability in the returning office, then consideration has to be given to the outlying regions. In my riding, it could be 50 miles to the returning office. We talked about urban-rural problems related to swearing-in. We have other problems in rural Ontario that we still have to recognize.

Would it be possible to have a copy of Mr. Bailie's report?

Mr. Bailie: My comments? Yes, I will see that you have a copy.

The Vice-Chairman: For Wednesday, when we are really going to discuss this act all day, if we could do that, I think it would be helpful. I agree.

Mr. J. M. Johnson: Another suggestion is, would it be of any benefit to the committee if Mr. Bailie sat at one of the desks with a mike while we are hearing from the different groups, so that if members do wish to refer some comment to the chief election officer, we do not have to bring him up from his office?

The Vice-Chairman: If that is in order, I think it could be arranged.

Mr. Breaugh: I had assumed that Mr. Bailie would be with us on Wednesday when we do the actual review. I think he should be here when we are actually conducting the review of the act.

There are a number of witnesses. Frankly, I had thought there were a lot of people who would want to come in and make a presentation. There is not going to be a great deal of discussion of how we will revise the act; we can accommodate that until Wednesday. I have no objection to his being with us and I am sure he or his staff will be, but I do not see a need to involve him in anything concerning the review until Wednesday.

The Vice-Chairman: I think Mr. Bailie's staff is going to be present.

Mr. J. M. Johnson: My feeling was that when comments were made by people making presentations, Mr. Bailie could clear up any misunderstandings.

The last very brief point: are we operating under standard or daylight savings time in this committee?

The Vice-Chairman: Sorry?

Mr. J. M. Johnson: Take a look at the clock.

The Vice-Chairman: Yes, I realize that. I am springing ahead.

Mr. J. M. Johnson: Is there any possibility we could have the clerk of the committee, on behalf of the members, contact the Speaker and ask him if he could update the clock?

The Vice-Chairman: The little old clockmaker from Switzerland is on her way over and the clocks will be changed, I understand, very shortly.

Mr. Breaugh: You probably just cost the people of Ontario \$1,000, Jack.

The Vice-Chairman: Thank you, Jack. That is taken out of Mr. Bailie's budget, though. Okay, Mr. Sterling.

Mr. Sterling: I just have a couple of short questions, hopefully. The first one is in relation to access by handicapped people to polling stations.

I know in the country it is almost impossible in some places to get a level-access polling booth if you want to stay within the poll. Having said

that, there is often a practice that takes place in the country that you may or may not be aware of. What happens is, if a person comes up in a position where he cannot really get into the polling station, the poll moves outside, probably quite illegally and all the rest of it. But that is what happens in the country, where the situation is that the fellow comes out with the ballot box and the ballot and says, "Here, do it." The fellow sits in his car and that is the way it is done.

Is there any provision in any of the election acts across Canada or anywhere whereby there is a discretion, let's say, where access is not available or cannot be made available, physically, that they can go out and offer the handicapped person an opportunity to vote?

Mr. Baillie: Yes, as a matter of fact there is a provision in the Election Act now that allows the ballot box to be moved to facilitate the voting of a handicapped person. As you have intimated, we always used that procedure, but in the last changes we actually added a line to that effect.

Mr. Sterling: I do not know whether people are aware of that or not, but I certainly was not.

The second question I had was with regard to enumeration and the whole concept of enumeration. I understand that in Australia, if you do not cast your ballot, there is a sanction taken against you unless you have a legitimate excuse. I assume, then, that they have a pretty substantial method of enumerating their voters. Do you know what that system is?

Mr. Baillie: Yes. I have had meetings with election officials from Australia. Basically, their system is quite different from ours. First, they have an election every three years. They have a requirement that you must register. That is the law, and you shall be fined if you do not. Having been registered, if you fail to vote on election day, you could be fined.

The election officials tell me that it is not that effective a system because, first, almost any excuse is accepted. You may fail to vote on election day, but if the returning officer brings you before the judge, you could always say: "I am pretty sure that day I had these pains in my chest." It would be pretty difficult for the judge to say, "Pains in the chest notwithstanding, you should have gone out to vote."

Very few people are actually fined and the fine is very small. The returning officers have people whose full-time job is just to attend these court proceedings. It is very costly. I understand they are actually changing that, removing that from the law. But that is just quickly how it works.

Mr. Sterling: My third question relates to the person without a fixed address. How would you determine whether they should be voting in constituency A, B or C if in fact they were wandering between those three constituencies on any given day?

Mr. Baillie: That is a very good question. It is a concern we have had. However, in the last municipal elections in Toronto, the city of Toronto did agree to adjust its residency requirements so that someone could go to a community centre where he tends to go, if not every day then quite often, and list that as his address. If there was some way we could check that what they were telling us was substantially correct, then if that is all the address they have—in the United States, where they have registration, it is not a difficulty, because they are now being required by law to accept people

saying: "Well, my residence is that hot-air grate outside the front door of the post office."

They go into an office, put their name down and say how long they have lived in that county. The address in a registration of that type is almost incidental. It is just helpful to know precisely where your address is to find out what polling division you are in.

That is one of the big reasons we need an address of some kind, to have you in this polling division as opposed to just generally having you vote at whatever polling division you like, where we would have no control.

Mr. Sterling: Are there any recommendations in your report or have you considered recommendations to put in the hands of the returning officers power to say to a school principal: "You cannot close the polls. You must clear this area. You must provide parking." I am talking about reasonable parking for people coming in, reasonable access for the voters. Is there anything in your recommendations that provides the returning officer with some pretty substantial powers to say this to someone who is involved in a public function or in a public building, where many of the polls are in fact placed, so that he has some power to fix things quickly?

Mr. Bailie: We have had some difficulty in this area but it is not a general problem. We have not come to the point where we feel we could recommend to this committee that the people who are allowing us to have a poll in their place must provide parking. We try to talk to them about it. We try to get their co-operation so that not only can the voters coming in there park and have free and easy access to the poll, but that there will be a telephone available to them so that the poll official can call the returning officer, if there is the need to identify a voter or something like this, or if they have some misunderstanding or a lack of understanding of the act, they can consult the returning officer. But we cannot always ensure that and we have difficulty enough now getting polls.

I would think the tradeoff here might be that if we insist on this, this and this, we would have even greater difficulty getting the poll. Although the things you are suggesting would be desirable, and we are aware of them and we are tempted to say, "Would you please put that in the legislation," we are firmly of the opinion that it would create this additional problem of making it harder to get polls.

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The only possible solution with the schools, and I am not prepared to recommend it yet though the committee may want to consider it—all the schools are closed on election day in Quebec, which then makes all these buildings more readily available for polling places. Of course, their parking lots and access are ideal once they are closed. However, I think to close all the schools on election day is a decision that would be for only the Legislature to make, after very careful consideration.

Mr. Sterling: I guess the only other alternative would be to mandate the returning officer whereby he would not request the use of a school.

Mr. Bailie: That is true.

Mr. Stewart: If I might, there is a subsection in the act that requires a school board or municipality or provincially funded institution to

make available its premises as a polling place, when requested, not less than 14 days prior to polling day. It is very good as it looks, but the problem with that is that if an authority still says no, you have to go to court and get an injunction against it.

Certainly, to get a lot of injunctions in a short time is a burden. If the institution still indicates it is going to refuse, perhaps you can convict it of an offence after the election, but it is not very pleasant for the electors to go there and find that it is locked anyway or that somebody is trying to evict the polls once they have been established. A certain amount of voluntary compliance is highly desirable, even if you have a technical provision requiring the polling place to be made available.

Mr. Chairman: Thank you very much.

We have another presentation by the Barrier-Free Design Centre. Following this presentation and questions, we will recess until this afternoon. We will meet this afternoon in room 151 because we will have simultaneous translation services available. We need that this afternoon. We will be in room 151 this afternoon and then we will be back in this room tomorrow, Wednesday and Thursday.

We have Anne Adams, executive director of the Barrier-Free Design Centre. If you want to make your presentation, we will have questions following your presentation.

BARRIER-FREE DESIGN CENTRE

Ms. Adams: I understand that everybody has a copy of our written submission from the design centre. Thank you very much for the opportunity to make our comments here. For those of you who may not be familiar with the Barrier-Free Design Centre, I will provide just a little bit of information to put our comments in context.

We are a nonprofit organization based here in Toronto, serving Ontario. Our role is as educators and technical consultants in universal accessibility, in design for disabled and elderly persons. Our mandate is in three separate areas; first, in education, largely directed to those persons who have influence on the building environment—the design community, building inspectors, schools of architecture and design.

Information service is our second focus. We have the most comprehensive library in Canada now on barrier-free design and construction materials, and also in technical consultation, which is, I suppose, the background from which we speak today in reference to the Election Act.

The centre has served a variety of different clients over the last, almost five years now. Since our inception as a project of the Muscular Dystrophy Association of Canada, we have had the opportunity to work with clients with small residential problems, solving accessibility problems at home, right up to corporate facilities where major corporations were looking to improve the access to facilities for employees in their buildings.

Our experience in this particular area of the election process is based primarily on our work with Elections Canada prior to the 1988 federal election, where we were consulted to develop guidelines for Elections Canada specifically on the issue of access to the voting process.

Our recommendations today are based on a review of the three levels of policy, some recommendations that probably, we hope, make the best of each one of those different policies, hopefully to pull together the best possible solution.

Our review of the Elections Canada policy was perhaps more in depth than for any of the other levels, the municipal or provincial levels. Our role with Elections Canada was to satisfy its current definition of access. As you all well know, Elections Canada has a policy now in place. Mr. Hamel implemented the policy last year, although it was not made law before the election. His instructions to his staff and to the returning officers in Canada were to provide level access, which is the terminology they use, to all offices of the returning officers, to all advanced polls and to as many of the regular polls as possible.

There are a number of areas of weakness in that particular policy. We suggest that the definition of level access is a bit limiting in terms of the true sense of access. Level access in this context basically refers to being able to get in the front door. It does not include being able to get to the site, to park, to pass the threshold of the front door and actually go about your business to vote.

It also does not take into consideration more than one user of that voting facility. It looks at the voter, not necessarily the election staff. For example, level access would refer to somebody who would have a mobility impairment. Oftentimes, the common picture in our head is a wheeler, somebody who uses a wheelchair. That is but a small portion of the disabled people in Canada, and I might suggest, a small portion of the potentially disabled persons who work on the election. We certainly see a number of older Canadians who actually work on election day in the polling stations, many of whom have impairments that are a natural process of ageing, but for whom small modifications might make the process a lot easier.

We would like to suggest that the definition of access be broadened slightly, to include those with sensory impairments—vision impairments, hearing impairments—all of which we feel are valid areas of disability or impairment that should be addressed in this policy.

To look at the municipal elections policy, we have some concern over the current restriction of access to the advance polls only. You have obviously spent a great deal of time looking at the pros and cons of more people voting at advance polls versus the regular polling days. What we caution is that for some disabled or elderly persons who may need some assistance in voting, to only be allowed to vote at advanced polls is a very segregated sort of approach to a most basic Canadian right. While it may be a little easier to accomplish, we feel it is not as satisfactory a solution as possible.

In the Ontario act, we suggest the definition once again is a little bit narrow in terms of the disabled person. Again, it refers to access as if access by a wheelchair user were the only difficult access possible. There is no consideration for those with sensory impairments or for those who may have mobility impairments but do not use a wheelchair, who use a walker or crutches or canes, as a great many Ontario voters do.

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In summary, our recommendations would be to define access in a broad enough sense so as to include a variety of disabilities, ranging from the

existing definition of mobility impairment through to simply the older voter who may not be able to climb the stairs as easily or who may not be able to see quite as well in the polling station as somebody my age might.

We also suggest that the definition include all users of the polling station; not just the voter but the election staff as well. I understand it is a bit fuzzy about whether those people are actually employees of the chief election officer that day. We might caution you to examine this on the terms of an employer, even though it is only one-day employer. We would request that you comply with human rights legislation in Ontario now so as to make reasonable accommodation for those people who may have some different abilities on that day.

We also suggest that you develop some sort of guidelines that the returning officers might be able to use across the province on the technical aspects of how to make a voting station accessible. I draw your attention to the guidelines we developed for Elections Canada in November 1988 as an example of a tool that was developed for a not particularly sensitized audience, and not a very complex tool either. I will be happy to comment further on these guidelines if you have any further questions on them.

We also suggest that should a modification to a polling station be necessary, with the ultimate goal to make every polling station accessible, if there is a cost involved, the three levels of government look at cost-sharing that. It may not be a drastic cost. The ultimate goal would be to develop a greater stock of sites that can be used for this purpose and other purposes. It is not as though elections are going to go out of style in this country; we are always going to need them again. We would request that you look a little further down the road and perhaps involve the three different levels in cost-sharing.

On the area of sensitization of the election staff, we suggest that you consider a tool that might again be incorporated into the orientation process for returning officers and other election staff to sensitize them to the needs of disabled or elderly voters as well, to put together a more comprehensive understanding of the range of people who may be using these stations. Those are my comments.

Mr. J. M. Johnson: I have a couple of questions, one on the modification of polling stations for the benefit of election staff. I would like to point out to Mr. Bailie that one of the major concerns I have heard in this area is that, for example, in an arena during the winter months it is very cold. You talked about participation of the various levels of governments. Perhaps they could provide some heating for the people who work. They spend 10 to 12 hours in the poll and they are nearly frozen.

Ms. Adams: A little tiny addition for a big solution there.

Mr. J. M. Johnson: With accessibility, I think we get hung up sometimes on providing a level ramp and sometimes deprive people of other things. In the rural part of the province which I represent distance means a lot. People do not want to go too far and sometimes you drag them to the far corner of the area because it is level, for the benefit of only a few people.

I like the idea of the floating ballot box. I am not sure if that is correct terminology. I think last time we discussed this Mr. Bailie suggested that in British Columbia it was in place. They do have a ballot box that literally can float out to the cars. It has happened in my riding and it makes

a lot of sense instead of trying to drag people in, whether it is a heart problem or whatever. Surely in that case it would be better for a couple of people to come out and make sure it is properly scrutinized. Would you concur to something like the floating ballot box?

Ms. Adams: My only concern there would be that it is a different way of dealing with a different sector of people who essentially need equivalent rights, not necessarily identical but equivalent rights. So long as you stick to that true sense of equivalent, I guess you have to try it and see if anybody complains.

Mr. J. M. Johnson: The last point, when you are talking about people with visibility impairment, what about the party logo or political affiliation

Mr. J. M. Johnson: The last point is, when you were talking about people with visibility impairment, what about the party logo, the political affiliation, on the ballot?

Ms. Adams: I am sorry. I do not understand your question.

Mr. J. M. Johnson: Well, "Norm Sterling, PC or Charlie Brown, Liberal or NDP." The party logo has one of the names, so some of the seniors or people who have problems with their eyesight, instead of trying to determine whose name is Tory or whatever, can simply see the logo.

Ms. Adams: I would suggest that as long as you follow the principles of high contrast and large enough lettering, the addition of another symbol that is easily recognized—and many, many dollars of research have gone into those symbols to make them easily recognizable—is certainly going to enhance something.

Mr. J. M. Johnson: If we are talking simply about the ability of people to make an intelligent decision, this would have to be proved.

Ms. Adams: Certainly informing equally.

Mr. J. M. Johnson: We hope that they vote properly, knowing who they are voting for.

Ms. Adams: That is right.

Mr. Breaugh: I just have a little difficulty—perhaps it is unusual—about this "access" definition. Every time I see somebody getting down to trying to define "access" in this narrow a term, I start having problems with it, because it may well mean, and I think it does to some degree, that when the federal government got down to defining "level of access," it really had one small thing in mind. If you can get a wheelchair in the door, the problems were resolved.

There are lots of people who cannot see once they get in there, who cannot hear instructions, who may not be in a wheelchair. I spent some time in the last election with a group of developmentally handicapped people who had full knowledge of all the issues, knew a whole lot about politics and were very anxious to vote, but if your rule of thumb was whether you can get a wheelchair through the door, none of them would have been able to cast a ballot.

That is my concern. I am in full agreement with the idea that all public

buildings should have access to everybody, but when we start making our definitions that precise that we really mean whether you can get a wheelchair in the door, we are excluding all kinds of people, not to mention those who have difficulty walking but do not use a wheelchair under normal circumstances.

I sense a little reluctance, that you do not really want to take the ballot box outside to somebody because that makes him different, but there are a lot of people who are prevented from voting on election day because there is a big snowstorm, and we cannot stop the snow. We have tried but we cannot.

If we broaden rather than narrow our definition of "access," it may mean that you have a right to vote over a fairly lengthy period of time and you have the right to choose a fairly wide variety of places where you could cast your ballot. Would that not be a better way to go than to try to narrow that definition?

Ms. Adams: That is precisely my argument. Perhaps I have misled you somewhere. That is precisely what we are recommending, to broaden the definition of "access" to mean voting—let's get to voting, let's get the information we need to vote and let's do it—not just access for a wheeler into a building. What we are really uncomfortable with is getting you through the threshold but you cannot move around and actually cast your vote. Right now, all three levels of policy look to simply getting in the door but not actually doing the voting.

We precisely wish to broaden that definition of "access" and allow as many options as possible for all people. The whole concept of barrier-free design or universal access, if you will, is to make good design for everybody, as opposed to an isolated, segregated design for the handicapped, as it used to be called. Barrier-free design, and a barrier-free perspective even on voting, is one that allows the safest, most functional, most convenient use or operation for all people.

Mr. Breaugh: I have never been so nicely misled in my life.

Mr. Morin: Ms. Adams, I am just curious. I have never heard of your organization before. How are you financed?

Ms. Adams: I am glad you asked. We are a nonprofit organization, federally incorporated. We have some of our funding right now from the Office for Disabled Persons, which has chosen to support our longer-range strategies in education and information services. Our consultation service works on a fee-for-service basis. However, nobody is denied help who needs it. Our clients pay what they can pay, when they can pay, if they can pay.

A great many of our individual clients are not in a position to pay for architectural services such as ours. Probably over 85 per cent of our clients, certainly those with residential accessibility problems, are looking to a third-party funding source to cover the cost of those renovations; something like the Ontario home renewal program for disabled persons or Canada Mortgage and Housing Corp.'s residential rehabilitation assistance program for the disabled.

Mr. Morin: Is your advice strictly limited to Torontonians or do you go outside?

Ms. Adams: Absolutely not. In fact, when we first started the organization four years ago, we were madly running around the whole province

trying to solve these little tiny problems of accessibility. We burned out a lot of staff and did not really chip away at the problem very long. So what we have done is train a network of architects and designers around the province to act as our representatives.

If a client calls us from Timmins, whether it be a returning officer or whether it be an individual family, we assess the problem and make a match with our network member in Timmins. The architect in Timmins does the site visit, does the report or consults and sends us the information. We review it for quality control and then pass it on to the client. The architect invoices us, we pay the architect and then we invoice the client and recover the cost, if we can, from that client.

Mr. Chairman: Any other questions? If not, Ms. Adams, thank you very much for appearing before the committee and for your brief. We will be discussing this later on this week and probably beyond this week. We will recess at this time and reconvene at two o'clock in room 151.

The committee recessed at 12:01 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

REVIEW OF ELECTION LAWS AND PROCESS
REVISION DU SCRUTIN ET DES LOIS ELECTORALES

MONDAY, APRIL 10, 1989

Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)

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Yeager, Lewis, Research Officer, Legislative Research Service

Witnesses/Témoins :

De l'Association multiculturelle francophone de l'Ontario :

Abouchar, Alfred, Président

De l'Association canadienne-française de l'Ontario :

Brihmi, Mohammed, Responsable des relations gouvernementales

From the Metro Tenants Legal Services:

Hayes, Marnie, Community Legal Worker

From the Office of the Chief Election Officer:

Bailie, Warren R., Chief Election Officer

Individual Presentations:

Vezina, Gregory H.

Goodwin, Terry

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Monday, April 10, 1989

The committee resumed at 2:06 p.m. in room 151.

REVIEW OF ELECTION LAWS AND PROCESS
(continued)
REVISION DU SCRUTIN ET DES LOIS ELECTORALES
(suite)

Mr. Chairman: I call this meeting to order. We have several presentations this afternoon. We have one from the Association multiculturelle francophone de l'Ontario, from Alfred Abouchar. Do you want to come up, please? You will have to pardon my fractured French. Would you make your presentation, sir, and then we will obviously have questions from the members of the committee.

I might say for the benefit of those people who are tuning in that this is in regard to the Election Act. The committee is studying the Ontario Election Act to see if any amendments or changes should be made in anticipation of a future election, probably in 1991 or 1992, whenever that may come. Thank you.

ASSOCIATION MULTICULTURELLE FRANCOPHONE DE L'ONTARIO

M. Abouchar : Mon nom est Alfred Abouchar. Je suis membre du <Ontario Advisory Council on Multiculturalism and Citizenship> et président de l'Association multiculturelle francophone de l'Ontario.

Mesdames et messieurs les parlementaires, c'est au soir du 18 août 1987 qu'un groupe de francophones de diverses origines ethniques s'est réuni à Toronto et a résolu de poser les bases de fondation d'une association provinciale, qui porte avec fierté le nom de l'Association multiculturelle francophone de l'Ontario, l'AMFO, et qui se donne comme mission de regrouper et de représenter les francophones de toutes origines vivant en Ontario, et de protéger leurs droits.

L'avènement de cette jeune et très dynamique association — légalisée, les 10 et 11 février derniers lors d'un congrès de fondation regroupant plus de 450 personnes, en présence des représentants des trois partis politiques, et qui est le nouveau-né de la francophonie ontarienne — se doit d'être reconnu comme un événement historique de grande importance et un point tournant de l'histoire de cette magnifique province qu'est l'Ontario.

Fondée sur l'interrelation des principes du bilinguisme et du multiculturalisme enchassés dans la constitution canadienne et dans la Charte des droits et libertés du Canada et adoptés officiellement par la province de l'Ontario, l'AMFO se donne alors comme mission de promouvoir le fait français en Ontario dans le contexte de la réalité multiculturelle grandissante de cette collectivité.

L'AMFO est un regroupement de citoyens d'expression française issus en majeure partie de l'immigration des 20 et 30 dernières années. En moins de 18 mois, cette jeune association a réussi à éveiller la conscience sociale et

la fierté de toute une collectivité, à passer les frontières des différences ethnoculturelles et raciales, et à modifier les perceptions voulant reléguer le multiculturalisme à une unique dimension folklorique marginale.

L'AMFO a aussi réussi à regrouper à date plus de 500 membres actifs et à former une section à Ottawa et à Toronto, et s'est adjoint de nouveaux membres à différents endroits de la province. Plusieurs associations, institutions et regroupements communautaires ont donné leur appui et leur adhésion à l'AMFO, et un certain nombre de personnalités du monde académique, du monde des affaires et du domaine de la politique, tant provinciale que fédérale, ont accepté d'endosser l'énoncé de principes de notre association.

Le Canada est fondamentalement bilingue et multiculturel. Il n'est plus formé d'une majorité anglophone, d'une minorité francophone et d'immigrants tolérables et intégrables dans le biculturalisme. La constitution canadienne, la Charte canadienne des droits et libertés et, dernièrement, la loi fédérale sur le multiculturalisme instituent, à juste titre, la mosaïque canadienne, formée d'un ensemble de minorités culturelles toutes égales, réunies pour former la culture dynamique canadienne de l'avenir.

C'est dans le respect des individus et des collectivités culturelles et dans l'interculturalisme que doit se former l'identité de ce pays et de cette province. Aucun groupe culturel n'a dorénavant le droit d'imposer son schème de référence sur l'ensemble de la population et aucune collectivité ne peut s'approprier des droits suprêmes et non équivoques.

N'oublions jamais que les peuples originaires de ce pays sont les Amérindiens et les Inuit. N'oublions surtout pas que nous sommes tous des immigrants ou des descendants d'immigrants, et que l'ancienneté de certains ne leur confère pas le droit de reléguer les nouveaux Canadiens au rang de citoyens de deuxième classe. Nous sommes tous des citoyens de première classe, et nous nous devons de faire en sorte que les droits de tous les Canadiens soient respectés dans nos lois et dans la réalité quotidienne.

Je tiens à vous citer un extrait de la politique ontarienne des rapports interraciaux signée par le Premier Ministre de l'Ontario, M. Peterson, en novembre 1987. Le gouvernement de l'Ontario reconnaît que la diversité de la collectivité ontarienne constitue une source d'enrichissement culturel, social et économique pour la province et ses habitants. Le gouvernement s'est engagé à poursuivre l'égalité de traitement et de chance pour tous les Ontariens et reconnaît qu'un climat racial harmonieux est essentiel à la prospérité et au bien-être social de la province.

En conséquence, le gouvernement de l'Ontario déclare que toute personne en Ontario a le droit de vivre une vie libre de préjugés et de discrimination raciale. Le gouvernement participera activement à l'élimination de la discrimination raciale, et notamment des politiques et des usages qui, même s'ils ne sont pas intentionnellement discriminatoires, ont cependant cet effet. Le Premier Ministre du Canada, M. Mulroney, nous écrivait, le 10 février dernier :

<La langue française constitue le trait d'union entre de nombreux Canadiens qui ont en commun l'usage du français, mais sont originaires de pays, de cultures et de religions différentes. En regroupant les francophones de l'Ontario dans une même association, vous exprimez votre volonté d'affirmer votre appartenance à la dualité linguistique canadienne et vous témoignez de la réalité multiculturelle de notre pays. Je tiens à vous offrir mes plus sincères félicitations pour cette remarquable initiative et vous souhaite à

tous un congrès des plus fructueux. — Signé Brian Mulroney, Premier Ministre du Canada.»

A cette même occasion, le Premier Ministre de l'Ontario nous écrivait : «Au nom des citoyens et du gouvernement de l'Ontario, je suis heureux d'adresser mes plus sincères salutations à tous ceux et celles qui assistent au banquet d'ouverture du congrès de fondation de l'AMFO. La promotion de la diversité ethnoculturelle de la communauté francophone de l'Ontario représente un but louable et des plus remarquables.

«Notre communauté francophone étant composée de groupes d'origines ethniques diverses, il est clair qu'une plus grande sensibilisation à ses besoins et à ses intérêts est nécessaire. Le banquet de ce soir et les réunions de demain offriront une excellente occasion de réaffirmer les principes qui régissent l'Association et qui lui permettront de réaliser ses objectifs et d'atteindre ses buts. — Signé David Peterson, Premier Ministre de l'Ontario.»

Le président du conseil scolaire public d'Ottawa-Carleton, nouvellement formé, nous écrivait à cette même occasion : «L'Association multiculturelle francophone de l'Ontario lève le voile sur une ère nouvelle pour l'Ontario francophone, une ère marquée par une confiance accrue et une ouverture à la francophonie internationale. L'Association multiculturelle francophone de l'Ontario reconnaît les efforts menés par l'Ontario pour promouvoir le multiculturalisme d'une part, et le fait français d'autre part.»

Toutefois, l'AMFO s'inquiète sérieusement du fait que les présentes lois ontariennes axées sur le développement des services en langue française ne tiennent pas compte de la réalité multiculturelle francophone de l'Ontario. C'est dans ce contexte, et en tant que président du conseil d'administration provincial de l'AMFO, que je viens solliciter votre appui moral et votre participation à la reconnaissance formelle et à l'enchâssement légal du multiculturalisme francophone en Ontario.

Un exemple de ce dont je parle est la Loi de 1986 sur les services en français, la Loi 8, qui établit, dans son préambule, la reconnaissance de l'apport du patrimoine culturel de la population francophone et qui exprime le désir de le sauvegarder pour les générations à venir. L'AMFO espère que cet énoncé implique, comme il se doit, la reconnaissance de l'apport et la sauvegarde du patrimoine multiculturel de tous les francophones de notre province. Toute autre interprétation restreinte serait alors, selon l'AMFO, discriminatoire et contestable.

Le récent recensement municipal est un autre exemple de ce processus discriminatoire de mise en oeuvre des lois scolaires et municipales. Ce processus va à l'encontre de la politique ontarienne des rapports interraciaux et des articles 15 et 27 de la Charte canadienne des droits et libertés.

Les francophones d'origine ethnique vivant en Ontario n'ont pu se prévaloir du droit d'être francophones et ont été classés, malgré eux, comme anglophones en Ontario. L'Association multiculturelle francophone de l'Ontario a reconnu le problème du recensement depuis ses débuts, a transmis ses inquiétudes au ministre des Affaires municipales et aux autres ministres concernés, sans pour autant retenir leur attention.

L'AMFO s'est portée volontaire à participer à la campagne de sensibilisation auprès des francophones de diverses origines culturelles. Ces demandes demeurèrent sans réponses. Elle ne fut même pas considérée dans la

distribution des 250,000 \$ offerts à la promotion du recensement dans la collectivité francophone de l'Ontario.

Dans le cadre de la mise en oeuvre de la Loi 75 en novembre 1988, le gouvernement de l'Ontario a adopté une loi visant à recenser la population de l'Ontario en vue des élections scolaires. En principe, ce recensement visait à identifier les contribuables du secteur public et ceux du secteur catholique de la province, et, en même temps, à déterminer s'ils étaient francophones ou anglophones.

Quoique nécessaire à l'application des principes établis dans les lois provinciales, ce recensement statistique présentait certains problèmes. Les principes fondamentaux sur lesquels s'appuyait cette loi, ainsi que les définitions de base concernant les regroupements linguistiques, sont élaborés dans l'article 23 de la Charte canadienne des droits et libertés, et ce, en fonction des droits des individus à l'instruction de leurs enfants dans la langue de la minorité linguistique.

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D'autre part, quoique l'article 27 de cette même charte traite de multiculturalisme et se doit de chapeauter l'article 23, et malgré la nouvelle tendance des deux paliers de gouvernement à instituer le multiculturalisme comme principe complémentaire au bilinguisme officiel, l'exercice de recensement provincial maintenait uniquement et implicitement les principes de bilinguisme et de biculturalisme en ce qui a trait à la francophonie ontarienne, tout en encourageant les principes de multiculturalisme en ce qui concerne le restant de la population de notre province.

Nous voyons encore une fois le multiculturalisme ne parler qu'anglais en Ontario. Nous subissons encore une fois deux poids et deux mesures.

Les inquiétudes qui nous incitent à vous faire cette présentation sont principalement fondées sur le silence législatif face à la réalité du multiculturalisme francophone en Ontario et à la persistance des autorités à ne pas reconnaître la population francophone ontarienne d'origines ethniques variées, comme faisant partie de la collectivité francophone de l'Ontario.

Un recensement est une étude analytique, fondée sur des principes de base bien établis, qui recherche, d'une façon quantitative, des regroupements spécifiques à partir de questions, élaborées de façon explicite, traitant de situations sociales et contextuelles, fort complexes et variées.

La méthodologie suivie, le choix des regroupements types et le contexte culturel, ainsi que la terminologie utilisée, ne sont que certains des facteurs déterminants de cette enquête. Il demeure quand même que la compilation simple de données relatives à des concepts sociaux fort complexes se doit d'être suivie de vérifications des données, avant de pouvoir fournir aux statisticiens les informations correspondantes aux regroupements recherchés. Les facteurs de pondération et des approximations interprétatives sont alors à considérer.

Le plus alarmant en ce qui concerne cette technique de classification de la population, c'est qu'un grand nombre d'Ontariens peuvent s'inscrire à plus d'une de ces catégories. D'autres se voient retirer ce droit selon les critères établis par les outils de mesure utilisés. Notre inquiétude première résidait, et réside encore, au niveau de la définition donnée au terme de <francophone en Ontario>, la nature des instruments choisis pour le

déterminer, ainsi que le choix des individus responsables de son interprétation.

Parlons-nous alors de langue maternelle ou de langue apprise et encore comprise, comme le veut le paragraphe 23(1) de la Charte? Parlons-nous d'un individu qui parle et comprend le français, ou d'un parent ou frère ou soeur d'un enfant qui fréquente ou a fréquenté une école élémentaire de langue française au Canada? Parlons-nous d'un francophone du Canada ou d'un francophone provenant d'un pays étranger? Que devons-nous faire des individus qui possèdent deux ou trois langues maternelles, dont l'une est le français? Que devons-nous faire de ceux qui arrivent en Ontario et, n'ayant ni le français ni l'anglais comme langue, choisissent de s'associer à la francophonie ontarienne?

A ces questions, et à bien d'autres de nature méthodologique, s'ajoute l'aspect contextuel à partir duquel se présente le système d'éducation destiné aux francophones en Ontario. Parlons-nous d'un système d'éducation de langue française destiné à préserver le patrimoine d'une communauté, tel qu'il a été établi, à l'insu de la population multiculturelle francophone de l'Ontario, dans le préambule de la Loi 8 sur les services en langue française, ou d'un système d'éducation en langue française destiné à préserver le patrimoine multiculturel de tous les francophones, tel qu'énoncé dans l'article 27 de la Charte canadienne des droits et libertés?

A tous ces points viennent s'ajouter de sérieuses questions face à l'absence de francophones d'origines ethniques variées dans la haute fonction publique de l'Ontario et dans tous les services de consultation gouvernementale. Nous ne pouvons qu'être sceptiques face à la crédibilité du processus préliminaire de consultation qui a mené à la présentation en Chambre du projet de loi sur le recensement.

Nous remettons encore en question tout le processus qui a été mis en place dans la mise en oeuvre de ce recensement, que ce soit la promotion du recensement, la formulation des instruments de mesure, la mise en oeuvre réelle de la collecte des données ou l'analyse des données. Nous ne pouvons que mettre en doute la validité de tout ce processus de recensement.

Je vous prie, d'une part, de bien vouloir revoir toute la question du recensement de 1988 à la lumière des informations que je vous ai exposées cet après-midi. D'autre part, je vous demande de bien vouloir mettre en place les mécanismes nécessaires à la rectification de cette situation et à l'amendement de la Loi et de toute autre loi connexe, et ce, avant le prochain recensement de 1991.

Notre plus grande inquiétude réside au niveau de l'explication de la question numéro cinq. Les questions établies pour définir ceux et celles qui ont droit à l'enseignement en langue française sont basées sur l'article 257 de la Loi sur l'éducation qui, lui, se réfère aux paragraphes 23(1) et 23(2) de la Charte canadienne des droits et libertés.

Selon le formulaire du recensement, il faut répondre oui à au moins une des trois questions pour, à la fois, avoir le droit à l'enseignement en langue française et pouvoir participer à l'élection de conseillers scolaires francophones.

Si nous examinons chacun des trois choix proposés, certaines anomalies se dégagent.

Question numéro un, et je cite : <Le français est-il la première langue que vous avez apprise et le comprenez-vous encore?>

Pour des personnes provenant de pays bilingues, où le français est également la langue d'éducation — par exemple, le Sénégal, le Maroc, le Vietnam et Haïti — la première langue apprise, et aussi comprise, est parallèle au français. Dans de tels cas, ces personnes ont plus d'une première langue apprise; elles ont été éduquées en français et elles évoluent donc confortablement en français. Par conséquent, elles sont francophones dans toute l'acception de ce terme.

Question numéro deux : <Avez-vous fait vos études élémentaires au Canada en français?>

En ce qui a trait à la question numéro deux, il est important de retenir qu'un grand nombre de francophones ont reçu toute leur éducation élémentaire et secondaire en français à l'extérieur du Canada. Par conséquent, ils ne sont pas considérés dans cette question. Cette discrimination envers les Néo-Canadiens va à l'encontre des politiques de l'immigration et de la citoyenneté canadienne et ontarienne, qui assurent l'égalité de traitement à tous les Canadiens, quelle que soit leur origine.

Question numéro 3 : <Avez-vous un ou des enfants qui ont fait ou qui font présentement des études élémentaires ou secondaires au Canada en français?>

Quant à la question numéro trois, on doit aussi se rappeler qu'un nombre considérable de personnes peuvent ne pas avoir d'enfants ou peuvent avoir des enfants qui sont présentement dans le système anglais ou dans les écoles privées bilingues. Encore une fois, ces francophones, qui forment une grande partie de la population, sont automatiquement identifiés comme non-francophones, et donc anglophones. Ainsi, ils se voient retirer le droit de voter à l'élection des membres d'un conseil scolaire de langue française. Par le fait même, ils se voient retirer le droit de faire instruire leurs enfants en langue française en Ontario. Et c'est là où réside le vrai problème.

Au sein de la communauté d'expression française en Ontario, le multiculturalisme est une réalité aussi concrète que l'existence du multiculturalisme au sein de la communauté d'expression anglaise.

Ce qui étonne et surprend, c'est l'absence de cette dimension dans les intentions politiques et les énoncés de principes des trois partis politiques face à cette population multiculturelle francophone, jusqu'alors silencieuse et ignorée. Cette tendance porte à croire que le phénomène du multiculturalisme ne touche que le segment de la population dite d'expression anglaise, et que seuls les Canadiens-français de souche représentent la francophonie ontarienne.

L'amendement de la loi municipale, de la loi scolaire et de la Loi sur les services en français devrait combler cette lacune évidente afin d'éviter une discrimination scandaleuse en Ontario. Rapports, études et conférences se succèdent, accompagnés de leurs litanies de vœux pieux et de recommandations sacro-saintes, sans être suivis d'actions concrètes. Ainsi, parmi la panoplie de fonctionnaires nommés pour mettre en place la Loi 8 et la Loi 75, on ne retrouve presque pas de représentations ethnoculturelles francophones.

Par ailleurs, dans la mise en œuvre des politiques de langues ancestrales, de l'équité en matière d'emploi, des droits des femmes et autres, la dimension multiculturelle francophone n'a été ni abordée, ni portée au secteur des institutions de langue française. Personne ne s'est inquiété, et ne s'inquiète encore, de l'absence de la représentation ethnoculturelle

francophone dans les nouveaux systèmes scolaires francophones au niveau des élus, des conseillers scolaires, des cadres administratifs, des comités d'étude et des conseils consultatifs.

Le recensement de 1988 aurait été l'occasion idéale pour faire ressortir ces lacunes et ces contradictions, et éviter de véhiculer deux politiques : l'une pour les anglophones, où l'on parle de multiculturalisme, de relations raciales, d'équité, d'éducation antiraciste ; l'autre pour les francophones, où l'on parle de l'hypothèse que la francophonie ontarienne est uniquement reliée au patrimoine des Canadiens-français de souche en Ontario.

Il est important de souligner le vrai problème : c'est que, tout en étant une minorité constitutionnelle, la communauté francophone en Ontario a vu sa composition démographique et ethnoculturelle profondément modifiée par le phénomène contemporain de l'immigration.

L'Association multiculturelle francophone de l'Ontario s'oppose avec véhémence à la situation actuelle et demande un redressement. A cet effet, et je conclus, l'AMFO vous transmet les recommandations suivantes :

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Un, que le gouvernement de l'Ontario amende la Loi de 1986 sur les services en français, afin que celle-ci reflète la réalité multiculturelle francophone de l'Ontario.

Deux, que le gouvernement de l'Ontario amende la Loi sur l'éducation, afin d'élargir la définition de <francophone> en Ontario, et d'étendre le droit à l'éducation en langue française à tous les francophones de cette province.

Trois, que le gouvernement de l'Ontario amende la loi municipale relative au recensement, afin de refléter la réalité multiculturelle de toute la population de la province dans le cadre des deux langues officielles.

Quatre, que le gouvernement de l'Ontario s'assure d'appliquer toutes les lois et les principes relatifs à la francophonie ontarienne à toute la population francophone de cette province, incluant la collectivité multiculturelle francophone de l'Ontario.

Dans l'espoir et dans l'attente de recevoir le compte-rendu de vos consultations et délibérations, et confiant que vous saurez redresser une situation contestable, qui se veut fort embarrassante pour nous tous, je vous souhaite de fructueuses délibérations.

Je vous remercie de m'avoir donné l'occasion de vous présenter ce mémoire, au nom de l'Association multiculturelle francophone de l'Ontario et au nom de centaines de milliers de francophones de toutes origines vivant dans notre province, qui ont les yeux braqués sur vous en silence en ce moment. Merci.

Mr. Chairman: Thank you very much, Mr. Abouchar. Does anyone have any questions to place at this time? I guess not, so we will go on.

Thank you very much for making your presentation. We have made notes on it. I know the legislative researcher has made some here, so we will be able to take advantage of those comments when we discuss the amendments later on this week.

We now have Mohammed Brihmi, and I hope that is the correct pronunciation, who is the government relations officer of l'Association canadienne-française de l'Ontario, who will make his presentation at this time.

ASSOCIATION CANADIENNE-FRANCAISE DE L'ONTARIO

M. Brihmi : Monsieur le Président, messieurs les membres du comité permanent de l'Assemblée législative, mon nom est Mohammed Brihmi. Je suis le responsable des relations gouvernementales de l'Association canadienne-française de l'Ontario, l'ACFO.

L'Association canadienne-française de l'Ontario a été fondée en 1910. L'ACFO a pour but de promouvoir le développement et l'épanouissement de plus d'un demi-million de francophones en Ontario. L'ACFO est constituée de 22 conseils régionaux. Je suis accompagné aujourd'hui par le vice-président de l'ACFO de la Communauté urbaine de Toronto, M. Serge Jacob. L'ACFO est aussi constituée de 18 groupements affiliés franco-ontariens, tels que l'Association des enseignantes et enseignants franco-ontariens, la Fédération des caisses populaires, Direction jeunesse, et j'en passe.

Suite à l'invitation un peu tardive que nous avons reçue de réagir au rapport du directeur général des élections et aux modifications proposées à la loi électorale en Ontario, j'ai le plaisir de constater que de bonnes choses se font au bureau du directeur général des élections à l'égard de la communauté franco-ontarienne et de la mise en oeuvre de la Loi de 1986 sur les services en français.

J'aimerais bien vous dire que ce rapport du directeur général des élections nous a beaucoup aidés à trouver des traductions justes à des termes anglais comme <returning officers>, dont nous ne connaissons pas l'équivalent français.

Le rapport du directeur général des élections sur les 34^e élections générales de septembre 1987 mentionnait, dans un paragraphe de la page un : <Le bureau du directeur général des élections a reçu du personnel supplémentaire afin de pouvoir traiter le nombre croissant de demandes de renseignements venant du public. On a également ajouté certaines ressources afin d'augmenter les possibilités de services en français, non seulement au bureau du directeur général des élections, mais également dans certains bureaux de directeurs de scrutin.

<Ces directeurs de scrutin avaient été encouragés à se conformer, dans la mesure du possible, à l'objet de la Loi de 1986 sur les services en français, mais, dans certains cas, ils ont été gênés par le manque de ressources existant dans leur région. Une seule plainte officielle a été déposée auprès de l'Office des affaires francophones au cours de la période des élections en ce qui concerne le processus de recensement dans une circonscription électorale.>

Il est question, dans ce paragraphe, du manque de ressources nécessaires afin de se conformer à la Loi 8 sur les services en français. Nous aimerions savoir de quelles ressources il s'agit : est-ce que ce sont les ressources humaines, les ressources matérielles ou les deux ensemble?

Si c'est le manque de ressources humaines dont il est question ici, nous nous demandons ce qui a été fait pour le prévenir avant et pendant les élections de 1987. Est-ce qu'on a fait de la sensibilisation auprès de la communauté, dans les régions désignées, concernant les besoins du bureau du

directeur général des élections par rapport aux services en français? Nous avons peur que ce manque de ressources ne devienne une justification, lors des prochaines élections, d'une attitude de négligence et de laisser-aller.

L'Association canadienne-française de l'Ontario demande que vous reteniez, parmi les critères de sélection des directeurs de scrutin dans les régions désignées, celui du bilinguisme. Nous demandons que ce critère soit retenu dans le choix d'un nombre raisonnable du personnel électoral, dans les circonscriptions des régions désignées : scrutateurs, énumérateurs, secrétaires des élections et j'en passe.

Nous voulons que la formation et l'instruction des directeurs de scrutin et du personnel électoral, sur les tâches reliées à la loi électorale, soient dispensées en anglais et en français pour tous ceux qui le désirent. Nous demandons que la politique des communications du bureau du directeur général des élections destinées au public et la politique d'embauche du personnel de ce même bureau respectent l'esprit de la Loi 8. Nous nous en remettons au plan de mise en oeuvre de ce bureau, qui doit être accepté par l'Office des affaires francophones et approuvé par la Commission des services en français.

La question des affiches nous préoccupe dans les régions désignées. Nous voulons que toutes les affiches qui paraissent dans les journaux, ou qui sont posées sur les murs ou les poteaux téléphoniques, ainsi que toutes les publications de formulaires, communiqués, et j'en passe, soient bilingues. Nous demandons que les directeurs du scrutin dans les régions désignées respectent l'esprit de la Loi 8 sur les services en français.

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Monsieur le Président, nous sommes conscients que, dans cette présentation, la dimension démocratique, dans son sens le plus large, n'était pas abordée. Cela ne veut pas dire que nous ne sommes pas intéressés, par exemple, à l'accessibilité du bureau de vote aux personnes en fauteuil roulant ou au droit des détenus à participer au scrutin, mais nous voulons simplement nous attarder aux besoins de la communauté franco-ontarienne en ce qui a trait aux services offerts en français.

Ceci met fin à ma présentation sur les rapports du directeur général des élections de l'Ontario. Merci beaucoup.

Mr. Chairman: Thank you very much. Do members of the committee have questions?

Mr. McClelland: This is more, I suppose, by way of a comment than a question, and thank you very much. You will forgive me for commenting—it is just as much a rhetorical question, I suppose. I did not want to subject you to my poor French. Perhaps on your next return, I will be more confident and will be able to address it in French.

One of the suggestions you made was some pre-emptive effort, if you will, to engage in a process to determine what resources we have, particularly in human resources. You mentioned looking at a target group of election staff. I know Mr. Bailie is here and I wonder what the mechanics would be in terms of our normal lead-up time.

I suppose one of the difficulties you have is getting an inventory of available personnel to staff the election. I know an ongoing, permanent staff is a different issue, but in terms of mechanics of advertising in designated areas, what are we doing now?

Mr. Bailie: First—

Mr. Chairman: You will have to come out to a mike, Mr. Bailie, so that for posterity's sake, we have it all recorded.

Mr. Bailie: Mr. McClelland has touched on a very obvious subject, that one must understand the provisions of the Election Act. If one did, one would know that 99 per cent of the election staff is required to be nominated by the political parties in the electoral district. They do not come under my control of selection.

Until the Election Act is changed, I do not have control of the human resources, which is what was referred to in my report. The Election Act does not give me the power. Generally, it is up to the members and candidates to be sensitive to the needs in the area. If it is an area where Italian is the main language, they would choose people that understood the language of that area to facilitate matters at the door. If the area happens to be an area where it is a Chinese population, you need the members or candidates to be sensitive to that in selecting enumerators for us who understand it. Of course, it is the same in a French area.

I do not have the right to select the enumerators, as you know. Even if I had the right, to find 45,000 enumerators in three days after the election is announced would be an impossible task for any office. That is why it is departmentalized and the candidates and the parties in the individual areas are involved, in order to accommodate that great increase from zero enumerators, once the Premier announces the election, to a list of around 45,000 in three to four days. One must keep in mind that those are—

Mr. Chairman: Practical considerations.

Mr. Bailie: Yes.

Mr. Chairman: Something you probably would not be able to find in three years. I know you could not find 245 or whatever in my own area, all of a sudden.

Mr. Bailie: It is your responsibility to find them under the terms of the act, not mine. Did that answer your question, Mr. McClelland?

Mr. McClelland: Yes, it does in part. I think that the mechanics are important, but in the other question, the suggestion that was made was in terms of our full-time staff. Just for the benefit of our delegation, how many do we have on full-time staff and what are the terms of their employment? I think that is important to understand as well.

Mr. Bailie: The full-time members of the staff of the office of the chief election officer number 14. The last three who were hired since the implementation of the bill have all been French speaking, every single one; and it is our intention that our office will not only comply with the bill but be in advance of it in my office where I do have the control.

Mr. Matrondola: I am sorry. I did not quite hear all of what you were saying. I see two representatives here: you from l'Association canadienne-française de l'Ontario and Mr. Abouchar from l'Association multiculturelle francophone de l'Ontario. Are you working together in parallel? Are these two associations working together or is each on its own?

M. Brihmi : Je me demande si cette question a un rapport direct avec

ma présentation, mais je pense que l'ACFO représente en effet les francophones en Ontario, et l'Association multiculturelle francophone de l'Ontario, dont je suis membre et l'un des fondateurs, peut se joindre à l'Association canadienne-française de l'Ontario, parce que, personnellement, je crois qu'on a besoin d'une seule représentation du point de vue de la francophonie ontarienne, pour donner en effet beaucoup plus de force et éviter des divisions inutiles. Je sais, comme les membres de ce comité doivent le constater, que le multiculturalisme est très fort, par exemple à Toronto et à Ottawa, mais je me demande si, dans les régions plus éloignées du Nord ou d'autres régions, on aura en fait un grand nombre, un nombre considérable de francophones multiculturels.

Moi, personnellement, je crois que la francophonie — regardez, je suis un des fondateurs de l'Association multiculturelle francophone et, en effet, je suis le responsable des relations gouvernementales de l'Association canadienne-française de l'Ontario. Je vois cette évolution dans la francophonie comme une chose très positive dans notre province.

Mr. Matrondola: Aside from your personal views, what are the views on multiculturalism within ACFO?

M. Brihmi : Je ne parle pas de mon point de vue personnel. Je parle du point de vue de l'ACFO, et je suis ici le représentant de l'Association canadienne-française de l'Ontario. Si je prends, par exemple, l'Association canadienne-française de la Communauté urbaine de Toronto, on a présentement un comité qui s'occupe principalement du multiculturalisme, mais, est-ce que vous allez me dire qu'à North Bay, on doit faire la même chose pour s'occuper du multiculturalisme francophone?

On va demander ça à M. Campbell, mais je pense que ce n'est pas quelque chose qui me semble réaliste. Je pense que l'Association canadienne-française de l'Ontario est ouverte à tous les regroupements francophones en Ontario et, comme je l'ai dit, on a 18 groupes affiliés de francophones en Ontario. L'Association multiculturelle francophone de l'Ontario peut se joindre à l'ACFO, si elle veut collaborer.

Mr. Matrondola: Are you trying to expand the multiculturalism within ACFO?

M. Brihmi : C'est certain. Je dis que le multiculturalisme fait partie de l'ACFO. Je suis, moi, Mohammed Brihmi, l'un des fondateurs de l'Association multiculturelle francophone de l'Ontario, et je suis le responsable des relations gouvernementales de l'Association canadienne-française de l'Ontario.

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Mr. Breaugh: Just a comment. We have had two delegations this afternoon which seem to fairly clearly point out that we are having some difficulty in the provision of French-language services.

I think it is only fair to say that some of what we have heard is a little outside the jurisdiction of the committee at the moment, in that we are looking at only the Election Act, but I do think it would be useful for the committee to have it. There is an advisory committee on French-language services that I happened to review in another life on another day. I do not recall any presentation from them on this matter, and I think we should seek their advice. That is one thing I would like to do.

The second thing is, I am told there is something like a five-year master plan for each of the ministries and everybody else in this world on how to implement Bill 8. I think we might like to take a look at Mr. Bailie's version of what that will look like. I think, as we proceed in these hearings, it would be useful for us to have the comments of the French-language services advisory committee on the matter. Perhaps Mr. Bailie could make a little presentation on his version of how that will be implemented in the elections office.

Mr. J. M. Johnson: Mr. Bailie brought to the attention of the committee the political reality that certain members appoint some of the election personnel. It takes it out of his hands and creates a problem for him. He takes the flak but does not have the responsibility to correct it.

When we start in the clause-by-clause on the bill, at the appropriate section, maybe Mr. Bailie could suggest some way that we could assist him in his endeavours to provide services to all groups, not just the francophones but the Chinese, whatever group needs assistance in the language; if nothing else, maybe support services; somewhere that he can contact an individual who could provide him with the necessary skills that he needs to deal with whatever community seems to have a problem. It would not have to be permanent staff per se, but during election period it could be staff who would be on call that he could make available for services for that period of time.

Mr. McClelland: Could I make a supplementary comment or suggestion following on what Mr. Breugh said. I wonder if our research officer may inquire of Cabinet Office with respect to section 7 of the Election Act. It would surprise me if consideration has been given with respect to the implementation of Bill 8 as touching more particularly on section 7, the appointment of returning officers for each electoral district, particularly, obviously, in those areas that are designated areas. I think that would be a useful, specific focus of the general, valuable suggestion that Mr. Breugh made. I would ask Mr. Yeager to provide that for us if he could. Thank you.

Mr. Campbell: Just following up on that, I am very much in a bilingual riding and in a community that is designated as such. The practice is that a number of francophone or French-speaking staff are present in the returning office. I think that a formal direction is given by the director to try to meet those requirements. Speaking only in a bilingual designation, because I think it is important that there are other staff and other communities that are not in this situation but do have large linguistic minorities that would also be as sensitively treated that way, I believe I am correct in saying that on Mr. Bailie's behalf, and I believe that is so. Certainly, it is in my own area.

Mr. Chairman: Okay. Mr. Bailie, do you want to just come up here for a second? Is it your intention to make some kind of preliminary report to us within the next day and a half to two days on this matter to see where the Legislature is in implementing Bill 8 and so forth and how it might impact or impinge on what we are talking about today?

Mr. Bailie: Yes. Our report on Bill 8 is a matter of record. We feel that we not only have met the recommended requirements but are ahead of them. I am talking about the staff that I do have control over.

As far as our printed forms are concerned, we were already ahead. I would say in every regard where we have control, we are moving ahead of the recommendations of Bill 8. We have no quarrel with the recommendations. They

are being implemented and will be in the next election to the extent that we have the resources. The human resources, I have already pointed out, I have just limited control over. There is no problem with our budget for meeting and even exceeding the provisions of Bill 8 which are in place. The work is ongoing.

Mr. Chairman: Thank you very much, and thank you, sir, for appearing before the committee. The next group we have before us is the Metro Tenants Legal Services and we have Marnie Hayes, who is the community legal worker.

Mr. McClelland: Excuse me, Mr. Chairman. Mohammed just wanted to make a quick comment, if he could.

Mr. Chairman: Oh, certainly. I am sorry. You will have to wait for a moment, Ms. Hayes.

M. Brihmi/: Je voulais simplement dire qu'il serait très important, reconnaissant les efforts qui sont déployés par le bureau du directeur général des élections — comme je l'ai mentionné, nous aimerions bien que surtout les programmes de formation et d'instruction, qui seront offerts aux directeurs de scrutin dans les circonscriptions et au personnel électoral dans les régions désignées, soient dispensés également en français. Comme ça, ça faciliterait la tâche du bureau du directeur général des élections.

Une petite remarque que j'aimerais bien ajouter. Comme vous le savez, on a un problème qui concerne la communauté francophone en Ontario : c'est le problème de l'analphabétisme. J'aimerais bien que le comité se penche sur cette question, qui touche d'une façon toute spéciale la communauté francophone en Ontario, pour trouver un moyen d'aider les analphabètes à participer au processus électoral démocratique de notre province. Merci beaucoup.

Mr. Chairman: Thank you, sir. We will now have Marnie Hayes, the community legal worker with the Metro Tenants Legal Services. Have a seat, please, and make your presentation, following which we will have questions.

METRO TENANTS LEGAL SERVICES

Ms. Hayes: Good afternoon. As mentioned, I am with Metro Tenants Legal Services. We are a legal aid clinic based in Toronto, funded by the Ontario legal aid plan, and we represent groups of low-income tenants in rent review matters and landlord-tenant matters as well as work in the area of law reform in order to improve the rights of tenants in Ontario and to increase the supply of affordable rental housing.

The reason I am here addressing you this afternoon is that I would like you to look at the issue of voting rights for those people who are most severely affected by the current housing crisis in Ontario.

The Election Act in Ontario as it stands is a discriminatory law because of the enumeration process that is based on a door-to-door canvass. The enumerators' lists are gathered by going to people's addresses and compiling the lists. That process does not take into account the growing number of homeless people in Ontario who do not have a fixed address and therefore do not have a home or a residence in the strict terms as we know residence.

According to the 1988 report of the minister's advisory committee on International Year of Shelter for the Homeless, there are approximately 40,000

people living in Ontario who are homeless; that is, they sleep in emergency shelters or they sleep in the streets. They do not have an address. Those people are not taken into account by enumerators and, therefore, are effectively denied their constitutional right to vote, because many of them, under section 15 of the act, are eligible, qualified voters.

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As well as homeless people in the province, we have an increasing number of tenants who, because of the lack of affordable rental housing, are forced to double up and live in overcrowded circumstances that contravene municipal bylaws. Those tenants are fearful of letting their address be known to enumerators for fear of eviction or they just do not want to let the fact that they are living there illegally be known publicly. As I understand it, voters' lists are made available to political parties and others, so they do not want their name on that list.

As well, because of restrictive municipal zoning bylaws, tenants are forced to live in illegal basement apartments, illegal rooming and boarding houses, and again they do not want to make their addresses known to enumerators.

If you have my recommendation laid out before you, then I can repeat what I mentioned in the recommendation. In the fall of 1988 in the municipal election, at the level of the city of Toronto, an administrative solution was sought and gained in order for homeless people to be given the right to vote, to be given the opportunity to vote, in that community centres were used as addresses for the purposes of the election. Community centres where homeless people store belongings, receive mail, receive messages, eat and socialize, for the purposes of the election were legitimately called residences. That solution allowed people who would otherwise be disfranchised the opportunity to vote in the election.

We are recommending that perhaps this committee could implement a similar provision in the Election Act in order that homeless people be given the opportunity to vote. That is basically all I have to say. I feel it is the responsibility of this committee to take this issue into account.

Mr. Chairman: I have a few people who want to ask questions. I just have one question about your comment earlier, and I could very well have misunderstood it, that these people do not want their names to fall into the hands of political parties because they may be abused or something. I was not too clear about that and I just want you to clarify it. I was not too sure how you meant it.

Ms. Hayes: People who are living illegally in apartments—and the number is growing due to the housing crisis; they are overcrowding in apartments because there is no affordable rental accommodation available—do not want to make the fact that they are living there known to enumerators for fear of the landlords or anyone finding out about the fact that they are there.

It is an issue I raise because it is a very real issue and there are a growing number of people who are living in those circumstances, and the restrictive residency requirements in the enumeration procedure do not take those people into consideration. Does that clarify that?

Mr. Chairman: Yes, thank you.

Mr. J. M. Johnson: I would like to follow up on that. I wonder if Mr. Baillie could come up.

We touched on this briefly this morning, and the homeless is quite a concern. At that time there was some discussion about the rural vouching system to allow them to be sworn in. But even with that, Mr. Bailie, would it not require an address?

Mr. Bailie: We require a geographic location so that it would be known whether this person is in poll 113 or poll 114. We could not give someone a carte blanche voting privilege, so they might decide to vote here today and somewhere tomorrow. The address helps us to say, "Here is your polling division" and once you have voted, we have crossed your name off. That is the security of our system. So it is a very important part of the security of our voting system to have an address or a location.

Mr. J. M. Johnson: If we go a step beyond that and go to the people who are living illegally in overcrowded rental accommodations, they have an address but they are afraid to disclose it. If they are sworn in, their address would appear, would it not?

Mr. Bailie: One of the solutions might be the one I discussed with Mr. Breagh today, where people could register on election day. Though in the wording of the act it says their names will be added to the voting list, they would not be on the list that goes up on the post or is distributed to political parties, because by that time the list is no longer distributed. So there would be an opportunity, if my recommendations were passed, for people in that category to register on election day at the poll. Their names, as such, would not be distributed.

The candidates have a right to have scrutineers at the polls, and their lists would probably include those names if the scrutineers were doing their job right and added them. There is no way we could assure them that it would never go on any list, because it must go in the poll book. The names of all voters who vote go in the poll book, but those are not distributed and are destroyed one year after the election.

Mr. Chairman: I think what we should do, for the benefit of Ms. Hayes, is maybe mention why you were concerned this morning about people being able to vote anyplace. They had to have an address. Otherwise they could go to 10 different places and cast their ballots for all kinds of people, if they just happened to be able to put down an address for someplace. That gets to the other side of her concern.

Mr. Bailie: Yes, because though everything we try to do is to make sure that everyone who is eligible has the right to vote, in concert with that we must make sure the system is secure or else the effect of your vote, though you may get it, is not very good because no one knows exactly who is qualified and how many votes you got from unqualified people. So I think everyone would have an interest in making sure the system is secure, but we would not want to have any system that administratively disfranchises anyone. That is what we are aiming towards.

The checks and balances of our system have been established over the years, an address being almost one of the, I guess, cornerstones. It is a matter for the Legislature now to decide, "On balance, we do not feel there is the same need for that check that there was in the past and, given the fact that it does disfranchise some people, we will give on it." But that is a decision only the legislators can make.

Ms. Hayes: I understand that a traditional basis of the law is that

you vote based on your address, but I am pointing out that we have to look at that situation and consider changing it in a way that is fair to everyone, in a way so that it works administratively and also so that people are given the opportunity, perhaps by using the addresses of community centres.

Mr. Bailie: Unfortunately, you were not here this morning. I did, in my statement to the committee, point out that we are looking at this possibility. We have information from the city of Toronto as to how this worked. We are looking at it and we will be discussing it with the committee before these discussions end.

Mr. Campbell: Just to follow up on that, strictly speaking, what is to prevent somebody with an address from multiple voting? If somebody is listed on the list and has an address, what is to prevent him from roving around the city and voting in a number of places?

Mr. Bailie: Not quite. In the ideal world, if the two poll officials who were recommended live in the polling division—you now have a distinct polling division that numbers approximately 105 or 110 homes—if the poll officials live in that poll and if each one of the candidates, say three or four, has a scrutineer who lives in that poll, and I come in and say I live at Mr. Breaugh's address, those six people say, "Well, I live on that street and you certainly do not," and ask the deputy returning officer to challenge you. So it is not quite that simple.

1510

Mr. Breaugh: That is a little farfetched. The notion the scrutineers would live in that poll, I think, is unreal. The notion that I would happen to know everybody who lives on my street is certainly unreal these days, in almost all of Ontario. I may recognize the neighbours within a few doors' proximity of your house, but I cannot give you the names and addresses of everybody who lives on my street and it is two blocks long. I doubt anybody else in this room could do it either.

Mr. Campbell: If I could follow up, my point in asking the question was precisely that. In a minority of neighbourhoods in Ontario, and I would venture to say the vast minority, would you have that so-called ideal world. I can think of my own election where I am sure that in fewer than 10 per cent of the polls I had covered could scrutineers or other staff people comfortably say they knew everybody in the poll.

That is why I asked the question. What I am concerned about is that we are relying on a system by address. Except for all the others, maybe it is the best we have, to paraphrase somewhat. But if we are relying on that increasingly, you will find that is not the case with the number of people we are trying to get to do these jobs. That is my concern and I have some questions for the presenter.

I do not vote early and often and I do not have a cemetery in my riding. Give me a break, guys.

Mr. Breaugh: It is a community centre.

Mr. Campbell: Exactly.

I would like to ask, though, in lieu of an address, in your experience in the Metropolitan Toronto department of community services—I do not come

from Metro, so I am asking this as more of a side question—what are the requirements for social assistance cheques or other funds that would flow to people on social assistance? How does the system work in Metro? Do you have to have an address?

Ms. Hayes: I work with Metro Tenants Legal Services and we mainly deal with landlord-tenant law and with tenants. To tell you the truth, I am not aware of all the social assistance requirements. I was just recently reading about that, though, to tell you the truth. I do not have all the facts now but I could get that information to you.

Mr. McClelland: The answer is yes.

Ms. Hayes: There is a discrepancy, though, between the law and the practice. I could get that information to you. As I said, I was just skimming over some information to do with that.

Mr. Campbell: The reason I was asking the question is, suppose that in its election process, the city of Toronto worked it out so that they had some point of contact, rather than a fixed address—I think of the point of contact as being a community centre. I know in my community, you have to have a fixed address so you can have a home visit done. I do not know how that would work in Metro.

Therefore, that establishes some sort of residence. I do not know, again, if that is the practice in Metro, but I imagine, because of the number of homeless, that there would have to be a different practice in Metro. That is why I was asking the question.

Ms. Hayes: The practice is that if you do not have a fixed address, you cannot apply on an ongoing basis for welfare; you can apply for emergency welfare.

Mr. Campbell: So it is more emergency than fixed general welfare assistance.

The point I was making was that in my community, the vast, vast majority of people are in a regular home situation or have a fixed address, for that matter, even if it is in a hostel or some other abode where they normally would be in a given period of time. I know some would say it is rather cold in Sudbury to be homeless in the wintertime. I suspect that is part of the solution to the problem, strictly speaking, on the basis of somebody trying to seek shelter of some kind or another.

The point is that somehow it could be related in Metro to the system the community services uses to help us along in that category. If the community centre in Metro worked, it may be some other system in another community.

I just make those points because I think it might help, but with this situation keeping in mind too this other problem I come back to: How do you prevent multiple voting with somebody who says he has an address? I am not sure any staff in a polling subdivision in the vast majority of cases would have any idea whatsoever who lived in that polling subdivision. Those are my concerns.

Mr. Chairman: I think the point has to be made, though, which Mr. Baillie would probably make, that although somebody may not know all the people who live in that poll, a person walking in and trying to fraudulently use that

poll and vote under somebody else's name does not necessarily know the person there does not know him. That is in itself a preventive measure, that people do not know who is going to be working there and therefore they might be recognized as not living in that poll and using somebody else's name.

Mr. Campbell: But then I would make the same point for someone multiple voting without an address. They might also face the same kind of situation. I guess my point is that it is not necessarily a fixed address that determines; it is the person's will to be honest and not be fraudulent in dealing with this very important process.

I think we may be looking at changing our basis to reflect that. I am very much concerned that we are trying to categorize it that people in a middle-class or upper-middle-class situation vote by some different means, almost discriminating against somebody else trying to vote. I guess that is where I am coming from. There is a balance. I recognize that. But I think it is on a different basis than what it has been in the past. Those are my only comments.

Mr. Chairman: Can I just ask Ms. Hayes a short question? How many people would you expect you would have there on any particular day? We are talking about people who in a sense use that as their base for that day. How many people would you think might use that?

Ms. Hayes: Use the community centre as their base?

Mr. Chairman: Yes, for voting purposes. Are we talking about 50? Are we talking about 200? Are we talking about 2,000?

Ms. Hayes: In the city of Toronto, I understand several hundred voters were registered through that process. That is in the city of Toronto alone, and that is last minute, without publicity and without a concerted campaign to let voters know of this process.

Mr. Chairman: Was that one centre or several centres?

Ms. Hayes: That was several centres.

Mr. Chairman: We are talking about several hundred people in several centres. How many people per centre? What I am saying is that you have a poll and conceivably you have 250 people who are registered in that poll. There might be a few more, but generally 200 to 250 is an average. How many all of a sudden might be located or be registered in that centre? Are we talking about 10 or 20? Are we talking about 50 or 100?

Ms. Hayes: The estimated number of homeless people in Toronto is 10,000. How many of those are qualified voters, I cannot say. How many of those are children under the age of 18, I cannot say. I am sorry; I do not have those numbers. I cannot say, per centre. It varies, I think, from Sudbury to Toronto.

Mr. Campbell: Just to add to that, I know that in one municipal election in the east end in Toronto there were something like 18 in this one ward I happened to be in. I followed it fairly closely on this one practice. There were 18 to 20 who were registered through that method. Again, as you say, no one really knew this method was being allowed, and in this one ward I think 18 was the number in the whole ward. If that helps to set out what might have happened throughout 12 or 14 wards in the city, you might be talking

about only 200 or 300 people who might have taken advantage of that. Had it been advertised and all of that, it might have been wider. That is all I can add to the comments.

Ms. Hayes: The National Anti-Poverty Organization as well, during the federal election, undertook a campaign to do the same, to make homeless people eligible or give them the opportunity to vote in federal elections. There is a provision in the Canada Elections Act that states hostel dwellers who were living there 10 days previous to enumeration could be enumerated, but otherwise not. The National Anti-Poverty Organization across the country was encouraging homeless people to use community centres as their addresses. The outcome of that—again, it was very spur-of-the-moment. It was too last minute to really assess the value and outcome. That is why.

1520

Mr. Chairman: It is something we should seriously look at, but I see problems associated with it. For instance, if you knew there was going to be a very—I do not want to debate this thing with you, but I just want to say that if you knew there was going to be a close race between two candidates and if you just enumerated them the day before, they could come in there and they could really tip the scales in favour of one candidate or another, if you brought in a lot of people from different parts of Toronto in order to register in that one poll, in that one section for that day.

For instance, in Metropolitan Toronto, if you had a lot of people going into one riding in Toronto all of a sudden to register in a few legal aid centres or wherever—do you know what I mean? You could have people register all of a sudden overnight and tip the scales in favour of one candidate as opposed to another. If you can prevent that, then—

Ms. Hayes: Mr. Chairman, I believe that happened in the past municipal election in Toronto. Is anyone aware of that happening? That did happen here, but it had absolutely nothing to do with homeless people or the community centres. There was some sort of fraudulent activity during the municipal election.

What I am saying is that perhaps what you are saying is right, but I do not think we can use that and say, "Therefore, homeless people cannot vote." I think we have to look for ways to enable people to exercise their right to vote. I think it is the duty of this committee to do that.

Mr. Matrondola: We have here a problem that we have to try to resolve. We have people who live somewhat illegally someplace and they are demanding the legal right to vote. You are saying that the Election Act is a discriminatory law that effectively excludes tens of thousands of Ontarians from voting. How many tens of thousands of Ontarians are we talking about, 10,000, 20,000, 50,000?

Ms. Hayes: As I have quoted from the minister's report, we are talking about 40,000 homeless people without a fixed address. Otherwise, it is difficult to estimate the thousands of people who are living in overcrowded circumstances. But we know—we read about it in the paper all the time—the number of people who are forced to live illegally because of municipal bylaws that make rooming houses and basement apartments illegal. I do not have any figures to clarify that. I just used "tens of thousands" because the number is large and increasing, but it is very difficult to specifically say the exact number.

Mr. Matrundola: Very true, but I would like to see everyone have the right to vote. As a matter of fact, this morning, we were discussing—on one other occasion as well—the possibility of mandatory voting so everybody would have the right to vote. I am very much in favour of that. Of course, people who do not want to do that would have to give a specific reason why they do not vote.

For example, in some countries when people who do not vote, it is noted, say in an office equivalent to the sheriff's office here. They are prevented from entering certain competitions, whether it is provincial or federal or municipal or whatever. Certain people who do not vote are noted as such, and they are prevented from entering certain competitions. I would definitely like to see everyone who has the right to vote exercising that right.

At the same time, people with no fixed address have to have an address somewhere because these people, I suppose, either—where do they eat? They cannot go on living without eating. They probably get some welfare. What is the address noted to collect their welfare cheque, or if they are an employee, or if some of them have a driver's licence?

There is supposed to be a mechanism for having a legal address for these people. Maybe it is possible to have community centres or some other places. When an election is called, if these people want to vote, perhaps we should be able to allow them to register somewhere legally, and that is their address for voting purposes and so forth. The fact that they live in crowded rooming houses or illegal basement apartments or whatever should not prevent them from voting.

Mr. Miller: If you make it too easy to get on the voters list or make it too easy to take advantage of voting—I want to support any principle that makes sure everybody gets the opportunity—what would stop a candidate or his team buying votes by saying: "I will give you \$5. You go vote for me"? It makes it too easy. That was a problem in the older days. The story I have heard is, "I would rather pay you the money to stay home," and you know where the votes are going to be. We have gone by that point.

I guess the question I am asking, maybe of Mr. Bailie, is whether this is a real problem. Has it been brought to your attention before that people have been left off the voters list? Or is it more of a problem that the scrutineers who collect the names have missed or have not been able to put people on the list at the appropriate times?

Mr. Bailie: It is really a multifaceted problem. I understand that in the area just west of here, in the Chinese community, we have gone to a building to enumerate and have been told that a man and a woman lived there, two people, yet we would have 10 people come to register for a revision after the political canvassers had gone around. In other words, they were completely unaware of it. The enumerator accepted the word of the person who came to the door and said: "I am the owner here. No, it is just my wife and I who live here."

The enumerator, unless he knows the area as well as that landlord or home owner, would be faced with accepting that statement. Then we learn later, through revisions, that there are more people living in that building. The political parties stir up this interest by their canvassing. This is the type of thing that happens.

Now, homeless people or people living in illegal apartments, unless the

information comes to our attention, will be missed. Still, the idea of an address, which qualifies a person as either here or there, is very helpful to our system.

I am sorry Mr. Breaugh and Mr. Campbell have left, because I was not trying to suggest that each and every one of those six or eight people in that poll would know every voter. I was trying to point out that if we had two poll officials, three or four scrutineers and a voter standing in line, perhaps one of the six would know that the person was not who he said he was. It would not be that each and every one of them would know.

It has been the check we have had, or at least, as was pointed out by another speaker, the thought that one of them might know him or know that he was not who he claimed to be would deter someone from doing it. It is the only thing we have, really, but it is still a matter of the committee deciding on its recommendations, if it can think of some other way that can help locate a person in this poll as opposed to that poll, because we just cannot have general voting.

1530

Mr. Miller: I agree. I said scrutineers but I meant enumerators really, who do the enumerating.

I think you do. While it is a privilege that we all have, I think we want to guarantee that we are getting a fair vote. That is the bottom line to make sure our system is working properly. We should open every avenue to get everybody on the list, but I think it is up to that individual to protect that right too.

Ms. Hayes: I just wanted to ask about vouching. We are talking about individuals trying to get on the list of electors and not doing it twice or three times in different areas, doing it legally and rightfully. What about somebody vouching for them? Does that come in --

Mr. Bailie: At the poll?

Ms. Hayes: Yes.

Mr. Chairman: Ordinarily, we would not permit questions like that, but I will permit you to answer this, Mr. Bailie.

Mr. Bailie: This morning in my presentation I pointed out to the committee that I am recommending that it look into the idea that vouching would be eliminated but at each and every poll, whether it is urban or rural, someone could go in and take an affidavit and say, "This is who I am, this is where I live, which is in this electoral polling division, and I want to vote."

I had said that that person ideally should have two or three forms of identification. That is a matter for the committee to decide, whether two or three or one or just a statement that the person lives there, as a device for assisting people, such as the homeless and all other categories. It would not be a special recommendation for homeless people, but I thought that recommendation would probably assist them. That would be right at the poll.

Ms. Hayes: That exists now in rural areas, right?

Mr. Bailie: Yes.

Mr. Chairman: Ms. Hayes, thank you very much. I believe we have exhausted all the questions and we are pretty well on schedule, so thank you very much for your presentation. Starting tomorrow afternoon and Wednesday, the committee will be discussing your presentation as well as the others and starting to wrestle with amendments to the act.

The next person to appear before us is Greg Vezina. He has a presentation which has been distributed to all members of the committee. Members have an opportunity to take a look at the presentation. Then we have one other presentation by Terry Goodwin, following Mr. Vezina.

GREG VEZINA

Mr. Vezina: I appear before the committee as a three-time former candidate, twice for the Green Party and once for the Tories, most recently in the last general election.

Since 1984, I have been wrangling with, in no particular order, the CBC, the Canadian Radio-television and Telecommunications Commission, Global Television, the Ontario Commission on Election Finances, the federal election commissioner, the broadcast arbitrator and half a dozen federal and Supreme Court of Ontario judges over the issues I have raised in my brief.

Having been a candidate for a fringe party, I have firsthand experience about the issues that I raise in this brief; but also as a candidate for the Conservative Party in the last provincial election, a major party, I found that a lot of the things that bothered me about being a candidate for a small party were in fact worse in many ways when I was a candidate for a major party.

I think the easiest thing for me to do is very quickly go through my brief, and if you have any questions, please interrupt me.

Mr. Chairman: I think we will save the questions until the end, because you might answer them later on. If you might paraphrase it or whatever, it would be helpful.

Mr. Vezina: The Canadian political system is basically designed primarily on the British system. Although we have adopted a few things of our own, we have decided to use the House system and the executive branch being the government, the party that controls the most seats in the House. I still believe that there are many inadequacies in our system and I know that members present believe this as well, which is one of the reasons the committee is meeting.

In 1975, Ontario passed the Election Finances Reform Act, which I believe was an attempt to modify the electoral process, because there was great controversy over the fact that there were no spending limits and there was a perception among the public that only rich people or successful people with lobby groups, political action committees, could win nominations and get elected. So we passed legislation restricting the amount of expenditures and restricting contributions and initiating tax credits.

Although it was a very noble attempt to democratize the system, in fact in many ways we created more problems for ourselves than we had before. The first place where we created a problem was the issue of political tax credits. The way the tax credit system works, if an individual—I will use a round number of \$200 to make things easy—contributes \$200 to a candidate, to a campaign or to a political party, he receives a tax credit if he has a taxable

income or if he has tax owing. If they have no taxable income, they lose the tax credits, and if they have rent rebates, they lose the tax credits in favour of the rent rebates.

Corporations or businesses, however, get a 100 per cent deduction of a political contribution in the year in which the contribution was made. It does not take a Harvard degree to understand that if a corporation does not have any taxable income in this tax year, the first expenditure the accountant shows on the books is the political tax credit or the political contribution. It takes that deduction. If that results in a net loss for the business, then the business does not carry forward the political deduction; it carries forward the loss that resulted from using the political deduction now. So we have a situation where low-income Canadians who contribute to the political parties do not get political tax credits, but corporations or companies do. Right there, we have one case of discrimination.

Second, we have a case of discrimination between individual taxpayers, because, as I mentioned, a middle- or upper-income Canadian who makes a political contribution gets a tax credit, while a low-income Canadian does not. I appeared two months ago before the standing committee on finance and economic affairs in prebudget consultations here in this room and asked the committee to consider recommending changes so that political tax credits apply across the board and are refundable. I notice that in the committee's final report no such recommendation was made.

The fact of the matter is that, according to the presentation made before that committee by associations representing the disabled, over 90 per cent of the disabled have no taxable income. If they want to make a \$200 contribution to a political party, for nine out of 10 disabled Canadians it costs them \$200, whereas everybody else contributes \$200 and gets a \$150 tax credit; it costs them \$50.

We have a situation where the system penalizes lower-income Canadians, penalizes the disabled, penalizes minorities and penalizes senior citizens. There is no rational justification for the legislation to do so. In fact, in the light of decisions in the United States Supreme Court against political parties and legislatures, state and otherwise, that introduced restrictions on voters and political parties, the US Supreme Court ruled them all to be unconstitutional.

There can be no benefit in the tax code for a political activity that goes to middle- and upper-income Canadians and businesses but does not go to lower-income Canadians. The fact of the matter is that lower-income individuals are disadvantaged because they do not have any money in the first place, but if one of them wants to make a contribution, he should receive the same benefit as any other Canadian. In fact, I challenge the committee to give me any justification, moral or otherwise, for it not to be so.

The issue of political broadcasts in Ontario has become, for lack of a better term, a real nightmare. Seventy per cent of Canadians receive their news and public affairs information from television, and there is great controversy regarding the publication of polls and the lack of total data and the lack of informing the public of the question or who the nine per cent that made up "other" was.

There have been attempts by legislatures to introduce restrictions or legislation on the publication of polls. There are also serious complaints about media bias, both from the right-wing parties, which believe that the

media are taking their position to inform the public as their critics, and against the left-wing bias of the media, because many people believe that our state-owned network in particular is the mouthpiece for organized labour.

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The fact of the matter is that in Canada there are absolutely no restrictions or controls on the editorial content of news and public affairs broadcasts beyond the CRTC requirement for equitable coverage. The fact of the matter is there is no definition in any statute anywhere in this land that is enforceable by law of what equitable means. In 1987, the CRTC issued a circular as a result of a 13-part complaint that found in 14 counts that the CBC violated the Broadcasting Act. The CBC continued in the next election to do exactly the same thing and another complaint was filed.

The CRTC issued a new broadcasting policy in September 1988 that said: "All rival parties and candidates must be treated equitably and we shall define 'equitable' for you broadcasters. Equitable means that if you have a six-hour debate among the leaders of the major parties, some time, some format must be given to all registered political parties, keeping in mind that federally you have to have 50 or more candidates to be registered." So serious political parties have a shot and people who call themselves a political party do not, because you have got to have 50 candidates.

The broadcasters decided that they were not going to obey that policy, because the CRTC issued it in a policy paper and the Broadcasting Act gives the CRTC the right to make regulations. The CRTC issued new television broadcasting regulations in 1988 but, in the section dealing with political broadcasting, it said that would be subject to a public notice in the future.

So here we have a federal Broadcasting Act that says there must be equitable coverage, we have television broadcasting regulations that say there must be equitable coverage and we have a CRTC policy paper defining equitable coverage. The lawyers for the broadcasters said: "We are not going to obey. We do not have to obey it, because it is not a regulation."

Yet the Election Act in Ontario defers to the authority of the CRTC and the Broadcasting Act on control and allocation of partisan political broadcasts. What do we do, Ontario Legislature, when a network gives a major political party \$5-million worth of free time in violation of the Broadcasting Act? The complainant goes to the election commission and says, "The Election Act says this is an illegal contribution because it was not done in accordance with the broadcasting regulations."

The commission says: "Well, I'm sorry, Mr. Vezina, but it took you 37 years to get a decision to the CRTC and now you are statute barred. We won't do anything for you." Here we have a violation of the Election Act, because millions of dollars of free time was given to major political parties in violation of the Election Act, but we deferred to the CRTC and will not prosecute.

The Ontario Legislature has the authority under the Constitution of Canada to make its own regulations for the conducting of elections and its electoral affairs and it chooses to defer to the CRTC. That is wrong. The Election Act should have minimum requirements for the broadcasters for the allocation of political time, as the Canada Elections Act does. It is not constitutional and it is not reasonable to defer on that responsibility to another body that will not enforce. It is the Ontario Legislature's job to do it, so do it.

The Environics Research Group polling company issued a poll after the debate that showed the impact that television is now having during election campaigns. Over 50 per cent of the voters either made up their minds as to who to vote for or changed their minds as a result of the leaders' debate. One out of two electors derived his political decision from one television show. No other political parties, no other leaders, no other points of view were espoused in that program or in any other program during that campaign. There was not one single item during the campaign where the editorial control rested with the political parties. The only coverage that the parties receive are what news editors decide the slant of tonight's 30-second clip is going to be.

Let me tell you, as a candidate for the Conservative Party in the last election, there were a lot of things that I wanted to say to the voter and I could not say them. There were a lot of things that Hugh Segal said for me on Canada AM that I did not need Hugh Segal to say for me, that, as a candidate, I would love to have said myself. Once I become a registered party candidate, I have a right to get my message to the electorate, untrammelled by the networks, untrammelled by the news departments and untrammelled by the CRTC.

The first order of business that this legislation should have is a guarantee that all registered party candidates have some format where they can espouse the views, the messages and the issues that they wish to get to the public without being interfered with by editorial or news decisions.

Before 1981, in every election in this province since television in the 1950s, the networks had debates. They had news and public affairs programs where candidates could get their message across. After 1981, when the fringe parties started demanding some time, because the networks were uncomfortable about excluding some parties, they proceeded to cancel all public debates. The only debates that take place during the campaign now are on community television.

The fact of the matter is that the percentage of people who watch community television as opposed to regular television is a percentile of one per cent. So the networks, in responding to challenges to their authority and news judgement, have decided that they will totally manage the election campaigns, they will totally tell the electorate the issues and they will totally tell the electorate the positions of the parties and that the candidates do not get that right. That is wrong and it should be changed.

Further, we talk about candidate and party expenses. In my riding I received 11 per cent of the vote, which means I got my whole \$200 back, but I did not get my \$10,000 subsidy because I got less than 15 per cent of the vote. Many of the candidates for the smaller parties in particular are women, the minorities and the disabled, because they cannot win the nominations of the major parties unless they have lots of money, so they run for the smaller parties. Lo and behold, they want to talk about women's issues; they cannot get on television.

Then we have a rule that says that if you get 15 per cent of the vote, we will give you a campaign subsidy of \$8,000 or \$10,000. To someone running as a candidate for office, \$8,000 or \$10,000 is a lot of money, and with \$8,000 or \$10,000, you can get quite a message across. But banks will not lend you money for a campaign based on, "I think I'll get 15 per cent of the vote," so many, many candidates do not spend the money because they are not guaranteed the subsidy.

Here we have a rule that says you need 15 per cent of the vote and then

we have another rule that says, "We're not going to let you on television; we're not going to let you communicate to 70 per cent of the electorate; we're not going to let you in debates where 50 per cent of the electorate will make up their mind," so we have a rule that says you need 15 per cent of the vote to get a subsidy and then we have another rule that says, "We're not going to let you have a chance to obtain that subsidy."

Again, it does not take a Harvard lawyer to look at the Charter of Rights and look at that law, that regulation, and find it is clearly unfair. It is clearly unconstitutional. If you have a requirement that a candidate must receive a certain percentage of the vote, then you must have a requirement in the legislation that those candidates will have an equal opportunity to obtain that percentage of the vote. There have been a dozen charter decisions around section 15 that have found that where an activity by a government prohibits or discriminates against a group or section of society, that law is unconstitutional.

In particular, this regulation discriminates against women, minority, disabled and native candidates, because the majority of all candidates in the last provincial election in Ontario who were women candidates were from the smaller parties, not from the big parties. Women want to have a say, they want to play, and then we have all these nice little rules so that, "It's okay, dearie, you're in the game," but when the fact of the matter comes down, women are not in the game. They are not allowed to play. We have five or six different sets of rules to make sure that they do not play. That is totally wrong. It should be changed.

1550

The next issue is election ballots. The ballot does not allow party affiliation in Ontario. I am probably not the only person who is going to make a representation on this issue, or has. It should be changed. When the electorate goes to the ballot box to get their ballot, the candidates' names are there. They may or may not know who their candidates are or what party their candidates are running for, but if the party's name is on that ballot, and if voters have made a decision to vote for a specific party, they can because they are informed.

In fact, it is really wrong not to have parties' names listed on ballots because you deny the electorate the knowledge of exactly which candidates represent which philosophies or parties at the very moment that they exercise their franchise to vote. If anywhere, that is the one place where electors must know which parties are represented by which candidates because our system is run on a party basis. Our system is not run by candidates; it is run by parties.

If you want to change the system and allow individual members to vote against the party line and not bring down the government and not let it be a vote of nonconfidence and get into that mess, go ahead. But as long as we have a party system, then let's have a party system and not pretend that it is otherwise.

Another thing that happens during election campaigns, and it has been in law in Ontario for years, is that you can refuse your ballot. As an elector, you can walk up to the returning officer and when the returning officer hands you your ballot, rather than spoiling it or marking six Xs or marking no Xs, you can hand it back to the returning officer and refuse it. A refused ballot is counted as a vote for none of the above. When they count all the refused

ballots, they consider those in calculating which candidates received 15 per cent of the vote and which candidates receive subsidies.

The refused ballot is a way for the electorate to inform the candidates in their riding, and the parties, that they are not happy. Yet nowhere does the office of the chief election officer, the Commission on Election Finances, the media or anyone else during an election campaign inform the electorate that they have the right to refuse a ballot, that a refused ballot is counted as a no vote and that if enough people refuse the ballot, the major parties will not get millions of dollars in subsidies.

If all of the people who did not vote in the last election in Ontario had walked in and refused their ballots, over 50 per cent of the candidates who received subsidies, and party subsidies, would not have been paid. It is a check and balance that was put in the system to keep the politicians and the parties honest because the electorate has a legitimate alternative.

The chief election officer and the media have said, "We're not going to inform the electorate of this right during a campaign because it will be seen as our saying they should vote for someone else or that we're against the party in power." It is the law. If the public has the right to vote "no" then the Election Act must require that the commission, during a campaign, inform the public of its right to vote "no," rather than keeping it a secret. It is not fair to keep it a secret and that should be explained to voters, as a requirement in the act.

Party registration: This is really the nutshell of my presentation with respect to "fringe parties." In Ottawa, under the Canada Elections Act, we have requirements. A party must field 50 candidates in every election to maintain its registration, a party must file its financial documents, its candidates' returns, its riding returns, its annual returns and its party returns, as is the case in Ontario. We have our rules in Ontario that say this is what it takes to become a registered political party, and you do it.

We have all these other rules that say: "Let's bury these guys somewhere. They have done what it says to become a registered party, but now we'll go hide them. Now we'll keep them off television and we'll make sure they don't get any subsidies. We'll make sure they don't get in any debates. We'll make sure the public doesn't have the chance to find out there's someone else to vote for, but we're a democracy."

I believe the rules for party registration should be changed in Ontario. I believe they should be stricter. They should be tougher. I believe we should have rules to prevent a bunch of lunatics from calling themselves a political party and demanding air time or turning the election process into a circus. I believe that is a reasonable limit in a democracy, but I do not believe that once you have rules, you have selective rules applied only to the major parties and not applicable to the smaller parties.

My recommendation is that one of the rules be that a party is not registered unless it fields candidates in at least 25 per cent of the ridings in each and every election. I would not object if this Legislature recommended a number of 50 per cent, because that would prevent lunatic fringe groups from screwing up the game for people who have a legitimate political agenda.

There are alternatives in this province to the major parties. Recently there have been a number of issues where the three major parties have agreed and there have been other parties trying to organize during a campaign for the

electorate to vote for them against it. Separate school funding is one. Meech Lake is another, but the three major parties get together with the networks and organize leaders' debates and make sure that on none of the issues where there is a liability, where there is a downside where the electorate can go out and elect someone else, they get a chance to be heard, because they like their nice, comfortable, little situation the way it is. It might be nice and comfortable, but it is not democratic and it is not constitutional. Such arrangements in the United States have been found unconstitutional. I suggest that unless something is done in this province, ultimately a court will make the same finding here.

Next we come to the election commission. Presently the election commission is primarily made up of political appointees: one member of the Legislature from every party, one public citizen appointed from the parties in the Legislature and then three other positions mandated within the legislation. There is no membership in the commission from any of the other smaller registered political parties. There is no requirement that this committee of the House or the election commission notify the other registered political parties when they are having meetings, discussing issues or doing any of the business they do even if it involves those registered political parties. It is clearly a denial of fundamental justice and of due process.

If you are going to have a commission that enforces the Election Act, then you must have some representation from all the parties registered under that act. You cannot have a committee made up solely of representatives of the major parties, because it is perceived as unfair and, in fact, it is biased. The boys get together and pass the rules and what about everyone else?

The first change should be that there is at least one representative on the commission from the smaller registered political parties. Maybe it can be done by consultation with the parties or by a lottery, however it is done; but if you are going to make the rules regarding political laws and enforce them, then there should be a representative from all those involved. I do not think that is unfair or unreasonable.

Further, there should be a requirement in the legislation that when the committee meets or when the commission meets, formal notice be given to all interested parties. Once again, I say if you make the requirements tougher for people to form political parties, and it turns out we only have three political parties that can meet the requirements, be that as it may; but if you are going to have parties registered, then once a party is registered it is registered, and it should not be treated unlike other registered parties.

I come now to dealing with the issue of women and minority candidates and the fact that (a) they do not have the money, (b) they have some difficulty in winning nominations from the major parties, and (c) their constituencies, the places where women would find money to run candidates on women's issues is from other women. The places where minorities find money or the disabled find money is from other minorities or the disabled.

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Unfortunately, we live in a system where money talks. Our election process has a limit in a campaign of about \$50,000, and \$50,000 is not chicken-feed. If you are going to finance candidates, then the financing of public candidates should be done on an equitable and fair basis and you should not have a rule that says only those who support candidates for organized labour or candidates for big business get subsidies or tax credits and anybody

else who wants to challenge the system gets none. It is unfair and it is unreasonable.

In one province in this country they have what I consider to be a very apropos and appropriate piece of legislation that says, "We'll give you a subsidy of \$1 for every vote you receive." There it is. So if you run out and get 5,000 votes, you have got \$5,000 to work on. There are no 15 per cent requirements and there is no, "You don't get on television, I don't get on television, you don't have the right to be heard." There are rules. The rules are fair. The rules are the same.

In the province of Quebec the Election Act states that there will be no debates, no news and public affairs coverage unless there is unanimous agreement among all the candidates in that riding. Such legislation exists in Great Britain and in Australia. In most countries in Europe all parties receive equal subsidies regardless of the outcome of their vote, but here in Canada we do not do that. There is something wrong there and we have to make the rules fair. That is what I have really asked for.

The real issue is the Charter of Rights. What impact does the Charter of Rights have on our election laws and our Broadcasting Act? I argue that there is one section in the charter that cannot be amended or changed by any Legislature or even by unanimous consent of all the legislatures, and that is section 3 of the charter, which is the right to run for office and the right to vote in an election campaign.

Under section 15, that is an equal right. No government—not Robert Bourassa, not Brian Mulroney, indeed not this Legislature—can pass a rule that trammels that right. They cannot use the "notwithstanding" clause, because the "notwithstanding" clause was designed not to apply to section 3. Those rights enunciated in section 3 are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." That is in section 1.

It cannot be demonstrably justified in a democratic society to have a democratic system that works only for some and not for others, and so I argue that the rights and the changes that I ask for in my presentation are changes that are guaranteed in the Charter of Rights, are guaranteed under the Canadian Bill of Rights, have been guaranteed under common law and are clearly found in the United Nations charter on civil and political rights. They are right there. It says, "A state party or a major party cannot legislate prohibitive barriers to opposition candidates and parties." We do it. We are hypocrites.

We have been famous in this country over the last several decades for pointing our fingers at banana republics, pointing our fingers at Russia, pointing our fingers at dictatorships. Yet we, with the Americans, supported Ferdinand Marcos until it was too late and, all of a sudden, democracy in the Philippines was a great thing. In Yugoslavia now all registered political parties have access to state television. In Russia the electorate could vote "No," for "None of the above." Many of the major candidates for the party, including mayors and premiers, were defeated in Russia three weeks ago because the electorate voted for none of the above. They had the right to do it, they were informed about it and they executed it.

Mr. Chairman: Mr. Vezina, I am sure some members still want to ask some questions. I think we are getting close to the end and we still have another presentation.

Mr. Vezina: IF I can take 60 seconds, I will wrap up.

Mr. Chairman: Yes, certainly.

Mr. Vezina: The fact of the matter is I do strongly recommend that the committee, through its research department, do some research into this issue and look at what the laws are in other democracies and how we compare, because I sincerely believe that when we compare, we will find there are great inadequacies in what we do.

My final suggestion to the committee is that I think it would be a very good idea to establish a permanent voters' registry in Ontario and for this Legislature to co-operate with the federal government in doing that, because the same voters' registry can be used for municipal, provincial and federal elections.

I noticed Mr. Bailie was here earlier today. I know the nightmares that he has gone through over the years in enumeration. That is what he was talking about when he was here before I started. I think it is something the committee should look at, and the Australian example is a very good example.

Mr. Matrundola: Mr. Vezina, you mentioned that corporations deducted 100 per cent of their donations.

Mr. Vezina: Businesses. Yes, sir, that is correct.

Mr. Matrundola: Supposing that a corporation donates \$200 to a candidate. What is their tax credit?

Mr. Vezina: They do not get a tax credit.

Mr. Matrundola: What do they get?

Mr. Vezina: They take \$200 off their gross income.

Mr. Matrundola: Fine. So, if a corporation was about \$200,000 in net income, it would get about a 25 per cent tax credit, in effect. If it is above \$200,000 taxable income, it may get considerably more.

Mr. Vezina: Yes, the net benefit to a corporation depends on what its effective tax rate is. You are absolutely right.

Mr. Matrundola: Vis-à-vis an individual who donates \$200, on the first \$200, if he or she has tax payable in Ontario, the individual has a tax credit of up to 75 per cent.

Mr. Vezina: That is correct.

Mr. Matrundola: Fine. I just wanted to make sure we got that straight.

There was something else that you also mentioned, the party affiliation. I like that idea very much. In fact, I myself have been in the same position in the past, and I believe that party affiliation is a good thing to have. But then you mentioned something about lots of money being spent for nominations. I keep hearing this all the time. What kind of money do people really spend on nominations?

Mr. Vezina: With all due respect to the honourable member, Frank Stronach spent \$400,000 in his riding before the writ was dropped.

Mr. Chairman: How do you know that?

Mr. Vezina: It was published in the press.

Mr. Chairman: Just because it was published, that does not mean it was true.

Mr. Vezina: Okay. Look, Mr. Chairman, in all honesty, and let's be honest here, I ran as the Tory candidate in Ottawa Centre. Fortunately for me, I did not have to buy my nomination. But I can tell some member that in the next election in my riding, and I live in Mississauga, I will buy my nomination next time. Unless you put restrictions on amounts of money that are spent during nominations, then people just like me who have run two or three times and beaten their heads against the wall, who have a few dollars in the bank, will go out and do what I suggest I will do.

Mr. Matrundola: If I may, can I just continue to finish this point? I have heard of this a lot of times. However, I ran twice as a candidate. The first time it did not cost me any money at all because I did not make any pamphlets at all. I just went out on the street and I got the membership.

Mr. Vezina: Did you win?

Mr. Matrundola: I certainly won the nomination. The second time, there were four candidates. Some of the candidates spent a bundle of money, and I spent \$240 on one pamphlet, my curriculum vitae. The rest was that I personally went on the street. I went to see people to get the membership and so forth. That is how. There were some so-called high-power candidates nominated by some high-power people. Regardless, I won on the first ballot, because I believe we have to win the heart of the people. That is what I believe in, the personal touch, not in spending money.

I learned my lesson back in 1968, when Barney Danson defeated Stephen Roman. Barney Danson spent \$30,000 to win. Stephen Roman spent \$90,000 to lose. Money does not buy votes, in my opinion. Thank you.

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Mr. Mahoney: Because of the lateness of the presentation, I was not going to ask a question, but I cannot help but acknowledge that it is a pleasure today to meet my opponent in the next election.

Mr. Vezina: Do not be too sure.

Mr. Mahoney: I wish you well in buying your nomination. I would say that quite clearly there are many examples around the province where nominations were bought and many examples where a lot of money was spent and nominations were not successfully obtained.

I am a little curious, though. You said that Hugh Segal made some comments on CBC that you could have well made for yourself. Are you suggesting that CBC, at either a regional desk or a national desk, be required to allow every candidate in every riding an opportunity to espouse the party policy or the individual perceptions that candidate might have with regard to the party policy, whether they agree or disagree with it?

Mr. Vezina: There are two ways to handle what I propose. One is to pass a piece of legislation requiring the broadcaster to set aside X hours of

broadcast time during the campaign to be allocated among political parties, as is the case with federal elections, and, further, to allocate by legislation that half of whatever that amount of time is goes to the candidates themselves and not to the party and not to the backroom boys.

The other way to do it is to mandate that every network or every broadcaster in its primary signal area, its target area, during a campaign, provide five minutes to each registered party candidate. The fact of the matter is that even in Toronto, where there are 30 ridings, in a three-hour show each candidate running for office would have five minutes to get his message across. What happens now, to be candid, is that they have their experts, their analysts, come in and some nonelected backroom boy tells you what is going on in your election campaign.

Mr. Mahoney: I guess that is the price of that party political system you espoused earlier. If it is a party political system, then I suppose you adopt party philosophies, programs and policies and then have those policies put forward. I see a bit of a contradiction. I suggest that perhaps one could work through the cable television outlets in the local ridings. You ran in Ottawa last time, I understand, and may now run in Mississauga, but when you are in the greater Metropolitan Toronto area you really get swallowed up, as a local candidate, by the media attention that is paid to the leaders.

I am not sure we should put the responsibility—certainly not through legislation—on the media to ensure that each one of the candidates in every riding gets a shot on The Journal or on some other particular venue. Rather, the onus should be on you and me to get our message out to the constituents through local media, local cable television and a lot of door knocking. That is what elections are based on.

I could see some real difficulties. While I quite agree, having been in this business for 12 years and having run several campaigns, that it is frustrating at times to get across the message I want to get across as an individual, and it is somewhat expensive when you are in the greater Metro area, I also think it would waste a lot of people's time if they were to be concerned about your views, being a candidate in either Ottawa Centre or Mississauga West, or mine, when they live in Scarborough and should be really concerned about their local area. I am a strong proponent of local politics, having been a councillor for 10 years, and believe the onus should be on us, not on some piece of legislation forcing CBC or Radio-Canada to give us a particular forum. I would just give you some food for thought on that.

Mr. Vezina: If I could just very briefly respond to that, the CBC has an application before the CRTC at this very moment for (a) a 24-hour news channel and (b) to take over the provincial and federal parliamentary channels to run them as political channels 24 hours a day.

Mr. Mahoney: It would be awfully boring, would it not?

Mr. Vezina: Who knows? Maybe they might be good.

Mr. Mahoney: You want to put the people to sleep?

Mr. Vezina: The fact of the matter is that when an election is called in Ontario, Mr. Mahoney, the writ is dropped, the House prorogues and there is no one sitting in the House and there is nothing on the Ontario legislative channel but a blue picture.

Mr. Mahoney: A blue picture? It is a red picture.

Mr. Vezina: Maybe a good thing to do is to use that channel for election processes. That might be something that the committee would want to consider. That would not interfere with the broadcasters' editorial rights, because we, the citizens of Ontario and this Legislature, own that channel.

Mr. Chairman: Thank you very much. I just would not want it to go unsaid, Mr. Vezina, that probably most candidates out there get their nominations very inexpensively. I would hate to have anybody out there have the impression that it costs a lot of money to get a nomination, because I can attest that, at four nominations, I do not think any one of them has cost me more than \$100 or \$200.

Mr. Mahoney: Mr. Chairman, you are so popular, that is the problem—popular there.

Mr. Chairman: I think I am probably more typical than the Frank Stronachs who spend \$400,000, and I think you should have also added that after spending \$400,000, if that was the figure, he went ahead and lost the election anyway. So there you go. People are not being spooked by these things. In fact, they often support the candidate who spends less money. We can tell you some other members who spent the majority amount of money spent in a riding and did not end up winning the election. I think that speaks highly of the perception of the public as opposed to what you are portraying as being typical out there, and I think that is important.

Mr. Vezina: I thank you for your comments. I guess all I can say is that I will have to agree to disagree with you on that point. There are many occasions when you are quite correct. I think the best example in Canadian history was Simon de Jong, the MP from Regina East, who ran against Tony Roman, who spent half a million dollars. When Mr. de Jong won that riding, the Regina Press Club gave him an award for beating the best candidate money could buy. But for every example of that, I think, in all honesty, there are a dozen examples of where the candidate with the real money and the political machine, which runs on money, won.

Mr. Chairman: Thank you very much, Mr. Vezina.

The next delegate is Terry Goodwin. Come forward, please, sir. Do you have anything to distribute?

Mr. Goodwin: No, I do not, Mr. Chairman.

Mr. Chairman: That is fine.

Mr. Goodwin: I hope to be very, very brief and let you catch up to schedule again, sir.

Mr. Chairman: Go ahead and take your time. We have a half-hour we had allotted to you. We took a little more time with the previous speaker. That does not mean you have to take a half-hour, but we have a half-hour or thereabouts if you want to take it. We want to be fair with you, as we have been with other delegations.

Mr. Goodwin: Thank you, sir. I do not think I will be quite as colourful as the previous speaker.

Mr. Chairman: Or as controversial.

Mr. Goodwin: Or as inaccurate.

Mr. Mahoney: Are you running anyplace?

Mr. Goodwin: Not for the province.

Mr. Mahoney: Not at the moment?

Mr. Goodwin: I was on an old school board in the municipal scene in Vaughan some years back—

Mr. Mahoney: Good for you.

Mr. Goodwin: —so I have rubbed my nose in it.

TERRY GOODWIN

Mr. Goodwin: My name is Terry Goodwin and I reside at 122 Thornridge Drive in Thornhill, L4J 1E3, and I speak to you specifically as a local ratepayer, a citizen.

I read Mr. Bailie's report and I can only say that I support his concerns. Essentially, I think they are housekeeping. I have two particular concerns related to it. The first one we have heard something about already, and that is enumeration.

I point out that both the province and the municipalities, which are creatures of the province, have the same concern. You go out and you have one registration for one and one for the other. Then you have a third one for the feds. They cannot come under what this committee does or this Legislature does.

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But what I would hope, because we have seen vast differences in these voters' lists, is that you do get one voters' list for both municipal and provincial elections. The question may come as to who keeps this list. Some municipalities may be very able to do so, whereas others may not, but the municipalities also do have hydro commissions that are billing people consistently. Many of them collect for water or sewers or something else as well, so they actually have within their knowledge what is going on in the town to a very great extent, yet these things are not made use of.

The voters' list is compiled by a division of the provincial Treasury and then given to the municipalities. In the last municipal election, I believe they mailed out and got returns from about some 70 per cent or 75 per cent. I would hope that something better than that can be done, because when that was all through, I still found that one of my neighbours who had moved away three years before was still on the voters' list, and the new tenant in the property had not even been shown. There are some inaccuracies that I think could be corrected.

I suspect it is probably Treasury that should keep the list, because its computers are set up to do it. At the same time, I think you immediately raise the question of turf. I could not see this committee recommending that the Legislature give up control of what is essential to the being of the Legislature. Whatever turf battles there are, I think the result should still be that the Legislature control or have final say over its own voters' lists. It is one that can be, I think, essentially very important.

We do that by pointing out specifically that in the last federal

election, which is still, in our area, before the courts, there was a difference of some 30,000 registered voters between the provincial and the federal returns. One of my friends who had voted for 18 years was not on the federal list.

I hope that we would get our own house in order, municipalities being a creature of the province, and get these two straightened out. I think rather than spending extra money, it may actually, in the long term, save money. I can see some people complaining because, "Oh, it is more work for me," but I think it should be done. Once you set it up, you probably will be able to turn out these lists at least four times a year, or some of the on-line computers may be able to turn them out even more often by requiring the concerned bodies to turn in the information to, we will say, the provincial returning officer through that particular system. I recognize that this committee can only recommend to the government that certain research be carried out to find out if that is practical.

The second concern I have, and I was rather shocked about this, is that when I talked to our town clerk about this matter, I said, "Of course, on such a list you will have to make a difference between who is registered as municipal, provincial and federal electors." He said: "Oh, no. They are all the same." I said: "Wait a minute. If I live in Vaughan but own property in Markham and Muskoka, I can vote for three councils. Do I get three votes because they are different ridings provincially?" The answer I got was yes. I do not think that is right. You may straighten me out on that, but I do not think it is right.

Mr. Chairman: You can vote only once in a provincial election and once in a federal election.

Mr. Goodwin: That is what I wanted to be clear on, because if somebody who is in charge now of a list that can be used as backup—and was in the last federal election—for enumeration can come out with something like this, then I think somebody better straighten him out in a hurry. Those are the two points I have, Mr. Chairman, and I thank you very much.

Mr. Chairman: Thank you, Mr. Goodwin. Members of the committee may have some questions they wish to ask. Mr. Johnson, you were first, and then Mr. Campbell.

Mr. J. M. Johnson: As a member of the fringe party, I would like to just comment on a nice, brief presentation. I did intend to question you about a voters' list that would be one voters' list for municipal and provincial for the very point you raised, because municipally you can vote two, three or four places, depending on whether you own property. Federally and provincially, you are supposed to vote once. You should inform this clerk that he has been voting three times when he should vote only once. I think that is correct; is it not, Mr. Bailie?

Mr. Bailie: That is right. In the province, you may vote only once.

Mr. J. M. Johnson: I really feel that one voters' list makes sense, but as it has to be defined for the different areas, it would be extremely hard. It would certainly be good for reference, and I assume they would use municipal lists to help to bring up their current list, but it would be next to impossible to have one voters' list for the two.

Mr. Chairman: I guess they believe in that adage, "Vote right and vote often."

Mr. Campbell: In my community it is, "Vote early and often." Anyway, I wonder if really your concern is that people who wish to vote are disfranchised because of the enumeration system that currently exists where, if you are away or out of town, you get missed; there is no provision for you to vote. The way it is designed now, you are added to the voters' list but there is a period of cutoff where you cannot be added no matter how many times you have voted or how long you have been a citizen or that kind of thing.

How do you feel about the provision of allowing people to be added right until the minute before the polls close on election day so that everyone who is entitled would have the opportunity to cast a ballot?

Mr. Goodwin: Mr. Chairman, through you, I thought I understood Mr. Bailie's suggestion to be that as long as people took an affidavit right at the poll, that would cover those few situations. I suspect that is correct. I am not as optimistic as he that someone, either the deputy returning officer, the clerk or the two or three scrutineers who may be there, would necessarily know somebody or know he was not somebody. In Vaughan we have gone from 15,000 to 90,000 people in a short time.

Mr. Campbell: If I might follow up, that was my second point, that in a growth area you might have brand-new polls that have never existed before or that people hardly know each other, may only have been living there for a short time, and when you pick somebody out as an officer of the poll, whether it be a party representative or someone else, they would not necessarily know anybody else in the neighbourhood.

Mr. Goodwin: You are quite correct on that. In fact, a goodly number of returning officers in the last federal election—and I am talking about Vaughan—actually came from Willowdale, Richmond Hill, anyplace they could grab. It is not quite the protection that is envisioned. I do just hope that it is not abused, taking a lot of people or a whole busload of people and taking them in to do that. I think that what is done has to be thought about very carefully.

Mr. Campbell: If I might, in closing, if you are going to go to a more open system, the deterrent factor may have to be there for swearing a false affidavit—when you are talking about busloads of people swearing affidavits—that the penalty be high enough that it be a very strong deterrent for people not to have fraudulent practices or corrupt practices. Thank you very much for your presentation.

Mr. Goodwin: Mr. Chairman, if I may make one correction: It was not Tony Roman who lost; it was Stephen who lost. When Tony ran, he ran as an independent and he won, and he did not spend any fantastic sums. He was right up against the top limit, and some people questioned how the numbers worked out. I think it points out, as every member of the House knows, that it is the individual who counts first and foremost. I think it should be that way and I hope it stays that way.

Mr. Chairman: Thank you very much. We appreciate your presentation.

Mr. Goodwin: Thank you.

Mr. Chairman: There are no further delegations today. The committee will meet again tomorrow in room 228 at 10 o'clock.

USE OF TRANSPONDER

Mr. Chairman: I just have one other matter with regard to the business of the committee. I have a request by an organization which asked that it have an opportunity to use the transponder. The organization asked the director of information services and he gave his decision based on the guidelines that the committee had adopted earlier this year. The request was denied.

Since that time, they have put in an appeal and they want the committee, of course, to hear their presentation to use the transponder. They have sent a copy of the letter they sent to me. We can distribute it to all members of the committee; a few members of the committee have already received it. Why do we not distribute that letter to members of the committee and then we can raise it again tomorrow? If members want to hear this appeal on Thursday, they have the benefit of the letter which came to me before the committee decides whether to hear the appeal.

We will distribute that letter that came to me today. We will distribute that to you tomorrow at the committee at 10 o'clock and then you can decide tomorrow whether you want to hear the appeal.

Mr. Morin: If we could also have a copy of the rulings that we had established and when?

Mr. Chairman: The guidelines?

Mr. Morin: The guidelines, yes.

Mr. Chairman: Okay. If there is no further business, we will adjourn this meeting until tomorrow at 10 o'clock in 228.

The committee adjourned at 4:33 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

REVIEW OF ELECTION LAWS AND PROCESS

TUESDAY, APRIL 11, 1989

Morning Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)
VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)
Breaugh, Michael J. (Oshawa NDP)
Hampton, Howard (Rainy River NDP)
Johnson, Jack (Wellington PC)
Matrundola, Gino (Willowdale L)
McClelland, Carman (Brampton North L)
Morin, Gilles E. (Carleton East L)
Sterling, Norman W. (Carleton PC)
Stoner, Norah (Durham West L)
Sullivan, Barbara (Halton Centre L)

Substitutions:

Cleary, John C. (Cornwall L) for Mrs. Sullivan
Sola, John (Mississauga East L) for Mrs. Stoner

Also taking part:

Grier, Ruth A. (Etobicoke-Lakeshore NDP)
Roberts, Marietta L. D. (Elgin L)

Clerk: Forsyth, Smirle

Staff:

Yeager, Lewis, Research Officer, Legislative Research Service

Witnesses:

From the Toronto Christian Resource Centre:
Shapcott, Michael, Community Development Worker

From the Canadian Hispanic Congress of Ontario:
Espinoza, Francisco, President

From the Office of the Chief Election Officer:
Baillie, Warren R., Chief Election Officer
Stewart, Alan, Special Adviser (Legal)

Individual Presentation:

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, April 11, 1989

The committee met at 10:13 a.m. in room 228.

REVIEW OF ELECTION LAWS AND PROCESS
(continued)

Mr. Chairman: I will call this meeting of the standing committee on the Legislative Assembly to order. We have delegations this morning, and the first delegation is from the Toronto Christian Resource Centre. We have Michael Shapcott, a community development worker. Mr. Shapcott, do you wish to come to the table there? If you want to make your presentation, we have allotted a half-hour for you, as you know. Depending on the length of it, we can then have questions and so forth. If you want to proceed, we can follow with questions.

TORONTO CHRISTIAN RESOURCE CENTRE

Mr. Shapcott: I will not be anywhere near half an hour in my presentation, I hope. My name is Michael Shapcott from the Toronto Christian Resource Centre. I submitted a submission to the committee, and I understand it has been circulated. I am here to make a very simple request to the committee, that the committee make provision to ensure that the right to vote is extended to people who are homeless and to people who are without a fixed address.

I understand this matter was taken up yesterday. I am afraid I was not able to be here so I was not involved in all the discussions. What I would like to do this morning is outline the issue and outline the successful approach that was taken in the city of Toronto in last fall's municipal election campaign.

The situation in Canada is that the Charter of Rights and Freedoms, which of course is the supreme law of Canada, does not specifically guarantee anyone the right to housing. Perhaps as a result of that or perhaps as a result of other factors, we have in this province tens of thousands of people who are absolutely homeless; that is to say, with no fixed address, living on the streets, being forced to live in abandoned buildings and that sort of thing.

We also have tens of thousands more people who are living in overcrowded, doubled-up situations, people who are forced to share accommodation. In this kind of housing in the bigger cities, especially Toronto, Ottawa, Windsor and London, people are typically living in tenancy situations where their name is not registered on the lease. They are in effect illegal tenants and are reluctant to reveal their true address for enumeration purposes, because to do so would threaten their residency, would threaten their housing and might end up with their being out on the street. Therefore, there are a large number of people, tens of thousands of people in this province, who are in the situation of not having a fixed address or being reluctant to reveal their fixed address.

I mentioned that the Charter of Rights, the supreme law of Canada, pretty well does not specifically guarantee the right to housing, but it does in fact recognize the right to vote as being the most fundamental democratic right for all citizens of Canada. That of course is in section 3. Ontario's Election Act goes on to add a few other qualifications to that. To be qualified, a person not only has to be a citizen, but has to be at least 18, must have lived in Ontario for six months before polling day, must live in the electoral district and must not be disqualified by the act or by any other law.

We have a situation where, on the one hand, we have a large mass of people without a fixed address and yet many of them are citizens and meet all the basic qualifications, both under the Charter of Rights and Freedoms and also under section 15 of the Election Act. What has prevented these people from voting in the past, and as recently as the most recent election in Ontario, has been the enumeration practices as set out under the Election Act and as interpreted by the chief election officer.

I have had correspondence with Mr. Bailie going back almost two years now on this particular issue, requesting that we work out some sort of an arrangement, some mechanism to ensure that people who are homeless, people who have no fixed address but who are otherwise qualified to vote could vote. I have attempted over the years to twist Mr. Bailie's wrist, but I cannot claim credit for breaking his arm. However, we have been unable to work out any kind of arrangement.

It has been Mr. Bailie's view that the Election Act does not give him the ability to work out any kind of arrangement, because the fixed residence requirement set out in the definitions section of the Election Act really prevents him from taking any measures to ensure that the ballot reaches all qualified voters. In my view, this procedural requirement is really based on a very old and archaic notion from the days when qualified voters were required to possess property. It clearly is not a qualification now of voting that you have to have any attachment to property; however, that last vestige remains in the fixed residence requirement.

It is very difficult to quantify the exact numbers of people who are affected. We know, in ballpark figures, the number of homeless people in the city of Toronto. We have an idea of the number of homeless people across the province. We have an understanding of the number of people who are living without a fixed address or who have a reluctance to reveal their fixed address. What I have done is to try to estimate, based on my own experience as a community worker in downtown Toronto working with poor and homeless people.

There would certainly be some homeless people and some people reluctant to reveal their address who would not meet the basic qualifications; that is to say, they may not be citizens, may not be 18 years of age, may not have lived in the province long enough or may not have met the other requirements of section 15 of the Election Act. But it is my experience that a large number of people are and have been left off the rolls for the simple reason that they have no address they can declare. Based on some numbers we have pulled together, we estimate there could be as many as 100,000 qualified voters who are denied the ballot across Ontario because they do not have a fixed address or because they are unwilling or reluctant to admit their true address.

When we engaged in dialogue with the city of Toronto about this particular problem in the time leading up to the 1988 civic elections, we worked out a very simple but effective method or procedure with the city to ensure that people without a fixed address—let us say, homeless people or

people reluctant to reveal their address for fear of being evicted and for fear of facing homelessness—could vote.

I have attached at the back of my submission both a letter from the city clerk explaining the procedure and also a copy of a simple application-for-inclusion form that we used with great success in downtown Toronto. The form merely requires that a voter make a simple declaration. In the event they have no fixed address or are reluctant to reveal their true address for fear of eviction, they could use the address of a community centre.

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At the centre where I work, we operate a soup kitchen and serve meals to as many as 100 or 120 homeless people on a daily basis. We used this procedure to sign up a number of individuals. The applicant signs a simple declaration at the bottom, and then the form is either submitted directly by the applicant to the election officials or there is provision on the back for an agent who has personal knowledge of the facts set out on the form to sign the form and submit it on behalf of the qualified voter.

In our view, the process worked well in the 1988 municipal election. It allowed people to vote who had otherwise been denied the ballot. We had a process set up where community workers who were in daily contact with the poor and the homeless were brought into the process and were contacted. There was quite an extensive campaign by the city of Toronto to spread the word and get the application forms out, and then to bring in the completed forms.

The one problem we identified with the Toronto process was that unfortunately, the final process was not put into place until about three months before the election, so there was not as much time as we would have liked to get the word out, both to community workers and to people who work directly with homeless people, and as important, to the qualified electors in the community. We are hopeful that for the next Toronto municipal election we will begin to start this process earlier and will have an even greater success in terms of bringing more people in.

In summary, the reality in Toronto with the current housing crisis is that there are tens of thousands of people who are homeless, through no fault of their own I should add, and there are tens of thousands of people who are being forced to live doubled-up in accommodation and are therefore reluctant to reveal their true address for fear of eviction by the landlord or other authorities. In my view, these are the people who should really have a ballot, because they are the people who should be voting for politicians and political policies that would help them in their immediate housing crisis.

As a simple solution we are proposing, first, that any amendments that are necessary to the Ontario Election Act be made to allow people who are qualified under section 15 of the act to use a community address for the purposes of enumeration, and second, that the provisions in the act that now allow for special enumerators to be appointed be extended so special enumerators are put in place to ensure that qualified voters who are homeless or without a fixed address are properly enumerated.

Those are my submissions. I would be happy to answer any questions.

Mr. J. M. Johnson: There are two elements of society you dealt with: the homeless and illegal residents. The homeless, I am sure we are all concerned about and maybe the community address would help to solve that

problem. I have a bit of a problem with illegal residents reluctant to reveal their address. You stated that the Toronto municipal election went well and that there was no problem there. If there is any problem with eviction, it would come at the municipal level, not at the provincial.

Mr. Shapcott: The reason I do not think there was a problem is that people who were reluctant to reveal their address were allowed to use a community address. To give you a sense of the scope of the situation, it was estimated by John Sewell when he was chairman of the Metropolitan Toronto Housing Authority that as many as 25,000 people were living illegally in MTHA units. Everyone knows about this; it is brothers, sisters, cousins, sons and so on of people who are legal tenants. They bring their relatives in off the street in order to provide them with shelter. That gives you an idea within that one group, of MTHA.

Mr. J. M. Johnson: Yes, but it is illegal at the municipal level, not at the provincial level. The province does not care if there are eight or 10 or 20 people living in a home, but the municipality does. If you did not have a problem with the Toronto election, you should not have a problem with the provincial election. Why would someone be concerned about stating where they live at the provincial level if it does not impact at the municipal level?

Mr. Shapcott: We are not talking simply about public sector landlords, but also private sector landlords. I think the problem is that there is fear in the tenant's mind that if a landlord finds out, the landlord may seek to evict. You are right that it is municipal bylaws that give the authority to evict for overcrowding, so the action is at the municipal level. But those bylaws are enacted by landlords, and the fear would be on the part of tenants.

There is the fear we have had expressed on the part of tenants and the fear we have seen when we have gone, as I have gone, from door to door to enumerate people. It is surprising in some low-income areas of the city how many people are "just visiting." You keep hearing that response. They have a fear. I do not know if I could say to you at this point that the fear is justified or not.

In some cases, the landlords would probably evict if they knew there was an illegal tenant. In other cases, such as with the Metropolitan Toronto Housing Authority, they tend to turn a blind eye in many situations, unless there are complaints. Depending on the landlord, it may or may not become a problem, but the fear on the part of the tenants is real in the sense that they perceive that to be a fear. That is what prevents them from declaring an address for the purposes of election.

Mr. J. M. Johnson: I certainly can appreciate your concerns, but I feel that if municipalities are willing to accept this, then surely the province should as well.

On your form, there is one thing I am not sure I understand. It is the second box that you tick off as "Owner of land in a municipality." Why would anyone who owns land hesitate to have an address?

Mr. Shapcott: I should explain that this was an all-inclusive form that was not intended simply for people without an address, but was intended for all electors who had been missed from the preliminary list.

Mr. Breagh: One of the problems we are faced with here is not exactly a legal problem. There is nothing in the act that says that you have to own a house or rent a house. There is the use of the words "residing in Ontario," which I guess in its broadest sense means that if you lived anywhere in this province, you would have a right to vote.

We do not get into a problem really with the letter of the law. Where we are running into a bit of a stumbling block here is the practice of how you enumerate people. Not too long ago, and I guess for most of us still, it was not an outrageous thing to ask, "Where do you live?" It seems to me that the problem in Toronto can be resolved by using community centres. That might not be the case everywhere in Ontario.

Would it solve a lot of people's problems if we said: "We do have to kind of identify you to some extent. How about a mailing address, like a post office or a church that you go to, or a community group that you know"? What if we simply said in the regulations and in the instructions to the enumerators that if they are unwilling to list an address where they reside, then ask them for a mailing address? Would that cause any problems for any of your people?

Mr. Shapcott: No. In fact, I just returned from two weeks in eastern Ontario speaking with people who were primarily poor, and with some homeless people. When we spoke about this specific issue, in some of the rural areas people who were homeless were being enumerated using rural route numbers. Apparently that was the practice. I do not know if it went on with the knowledge of the returning officer in the local riding, but it certainly went on with the knowledge of the people I spoke with. They understood that was one way to do it. I think that is certainly an option.

The reason we suggest a community centre as an address is that, you are right, in most of the big cities, especially in Toronto, there are lots of neighbourhood community centres. In the more rural areas it might be that the office of the returning officer might be an address, or there might simply be a mailing address.

I just want to pick up on your point about "residing" because I think that is important too. Part of the notion some people have of homeless people is that they are transient, that they sort of drift into town and drift out again. It has been my experience in working with the homeless people of downtown Toronto that most of them were born in Toronto. If they were not born in Toronto, they have lived in Toronto longer than I have been alive. They are not a transient population at all; they are people who because of economic and other circumstances are homeless.

It is important, and perhaps the confusion does come around the word "residing," but certainly many of the people I work with on a daily basis people have resided, as in "lived in" Ontario for many years.

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Mr. Breagh: Let me explore one other area. Having thought about this for a little while now, it seems to me that what we have here is a practical problem which has already been overcome in many parts of Ontario and we ought to be able to do it in Toronto, it being a world-class city and all.

I have a little difficulty with the idea, particularly if we did this on a large scale, that people would be qualified to vote and yet there would be

no way of identifying who these voters are.

First of all, there is a practical political problem. If in any riding, for example, it was quite easy to put 5,000 people on the rolls, to have them properly enumerated, and we did not have any way to contact them, I, as a practising politician, would have some objections to that, that there are 5,000 people out there and I do not know where to get at them, I do not know how to send them a letter, I do not know how to go and meet them, I may never be able to gather them in one place, and this little group of folks could move around and do a whole lot of damage.

Not to be paranoid about it, but it is true that there are political groups in the United States now who are pretty sophisticated about what a one per cent difference in the voting turnout will do to a local election. They haul out the computers and they identify which electoral districts could have a different result by a marginal change, and then they haul the troops in.

Without getting too wild about this notion, if we loosen it up too much, we certainly would make the rules such that if someone wanted to take a close electoral race and change that difference—I happen to know a guy who is very close to me personally—he happens to be the federal leader of the New Democratic Party—who won his first election by 15 votes. A lot of us know somebody who won or lost one by less than 100. So we are not exactly talking staggering numbers here.

If we made it easy to transport 50 votes in and out of any electoral district, we would do some damage to the process, so I have this little difficulty. I am quite prepared, obviously, to change the practices to facilitate someone who is denied the right to vote simply because he does not have a permanent residence. That problem is solvable. But as a tradeoff for that, people who want the right to vote do have to give us some faint clue as to who they are and how they might be reached.

Contrary to what Mr. Johnson says, I would suspect that there are a lot of municipal, provincial and federal agencies that would be very anxious to get the address of somebody who was a drug pusher, for example, or somebody who was living in a provincially sponsored and operated housing operation of some kind. If they were renting out a unit to two people and they found out there were six people living in there, they might have something to say about that.

Maybe the way to resolve that is to provide some measure of confidentiality to that process, so that you say to someone, "For purposes of getting enumerated, you have to give us a mailing address, but no other agency can use those enumeration rolls for purposes of criminal prosecution or eviction or whatever." We can do some things in that regard, but I still come back to that original problem that you cannot have 100 mysterious voters on the enumeration roll. Do you have any comments as to how impractical it might be or what kinds of problems we are causing?

Mr. Shapcott: I think there is a tradition, and it is not simply in the US but it is, unfortunately, in Canada too, of people who have abused the political process. We do not have to look much farther than the last Toronto municipal election. I believe there is a court action still proceeding on that, so I do not want to really say anything about that case in particular, except to note that it was not homeless people who abused the process, it was certain politicians who apparently brought in cronies from outside to vote for them. The other thing I would like to say about that particular situation in

Toronto was that it was caught. It did not happen.

I think the integrity of the voting process is obviously very important and it is important that the voters' lists not get flooded. I think the best way to ensure that the voters' lists do not get flooded is to have the lists out as early as possible and to allow what did in fact happen in Toronto, and that is that the various candidates had a chance to look over the lists and began to notice some strange things on some of the lists. That is what gave rise to the ultimate discovery in Toronto of a situation which, as I say, is before the courts.

Therefore, I think the best way to protect the integrity of the system is to make sure people get in as early as possible; get on the list as early as possible. Then we can begin to see by looking at the lists, comparing them with the previous lists from earlier elections, that sort of thing.

There is, however, a very important principle here and that is that our enumeration system is based on the notion of faith; faith in a voter. If a voter happens to be fortunate enough—and in Toronto you have to be quite fortunate—to own property, all you are required to do is make a simple declaration and somebody shows up at your door. If you are somewhat less fortunate but still have enough money to be able to afford an apartment and it is in your own name, then all you do is make a simple declaration, somebody shows up at your door and you say yes, no, and you are not required to produce any identification or something.

I wonder why it is that that third group of people, that is, the people who are not fortunate enough to have homes or if they are in a home are unable to reveal their true address, should be forced to go through certain extra hoops and why there is some notion that there may be an additional element of dishonesty.

I do not think we should make homeless people jump through any more hoops than we make any other electors jump through. That is to say that people should make a simple declaration and then the process should kick in. I think that the best way to protect the integrity of the system is to get people on the lists as early as possible.

I can speak specifically about Toronto in terms of the issue. Using you as an example, if you are now interested in courting the votes of people who have appeared on the list and you do not find an address next to them so you cannot run to them, how would you as a politician court their votes? What we did in Toronto—which I think was important too—was that most of the community centres that were active in signing people up under the special procedures set up by Toronto also were active in setting up community meetings. Again, at the community centre where I work, we had a meeting during the municipal election with all the candidates, from the mayor through to the school trustee, and a roomful of homeless people, most of whom we had signed up during the process. There were 60 or 70 people sitting in the room along with the various candidates and there was a chance for that kind of direct dialogue.

I think the integrity of the process can best be protected by not adding any additional hoops for one group of people and saying that this one group of electors will have to somehow jump through all sorts of hoops that other people do not. The way it can be protected is by ensuring that people are brought in and enumerated as early as possible so that the lists can then be checked, and the normal scrutiny that all parties put to the election lists

can weed out any irregularities.

Mr. Breaugh: Just one final question. So you would not have any objection, then, if we removed the idea that you had to have a permanent residence? The process would be essentially the same. When the enumerator knocks at my door, he generally says, "How many eligible voters are here?" I say, "There is me and my wife and my two kids." That is a declaration, the same as we are asking anyone else to take. The difference would be that it goes on a published list. My neighbour can say, "Well, your two kids do not live there any more," or "One is not a citizen of Canada any more," or all the way down the line to the returning officers, to the actual election day where scrutineers for another party can say: "That is not a valid voter. I want to challenge that." The appeal mechanism is there. The fact that we are claiming to be eligible voters is known early and is subject to scrutiny and to challenge along the line.

So if we applied the same criteria to the homeless, if we said, "You can make your declaration on the same basis as any other eligible voter and you can give us a mailing address," which may be General Delivery, Rural Route 3, Sydenham, Ontario, or whatever it is, but it is not a secret, it is known ahead of time and if I want to scrutinize those lists, I can and I can challenge them or I can send them letters or I can do whatever I can do with anybody else, there would be no objection on your part to a system that was something like that.

We just remove the idea that you had to give a permanent residence and make that public information which could be used. We may want to protect someone from prosecution for having too many people in a basement or something.

Mr. Shapcott: I think anyone on the voter's list should be subject to the same challenges. I guess my final statement would be that, as I understand the frauds that have been committed in the past in the election system, they have all been committed by candidates of various parties who have engineered certain things. I do not think we should deny the right to vote to homeless people or to people who are unable or reluctant to reveal their address because in the past certain candidates have decided to commit a fraud on the system. I think we can check the fraud by getting people on the list as early as possible and subjecting them to the normal challenges that happen in any election. As I say, I do not think that people who are homeless should be punished or kept off the lists because of a fear of what certain candidates may do to manipulate a vote.

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Mr. Morin: Can I have a supplementary? Mr. Breaugh advances a very interesting point, but to go beyond that, why should we help someone who is not a law-abiding citizen? All Canadians should be law-abiding citizens. Myself, to vote, I have to register, I have to state exactly where I live. These people who live in homes, who are not supposed to live there, are doing things against the law. Why should we encourage them? Why should we help them? That is the point Mr. Breaugh is raising. He wants to know as a politician, and so do I. Who are these people? I want them to vote for me, I want to solicit them, but if they are not law-abiding citizens, I do not want them on my side.

To go further, what about people who came to Canada illegally? They are homeless. They live in homes, perhaps, of Canadians who are registered, but they are not Canadians. How do you differentiate?

Mr. Shapcott: Section 15 of the act already sets out certain qualifications, including citizenship. If someone is not a citizen, he or she cannot vote. The process requires a simple declaration on the part of a person that he or she is a citizen and meets the other qualifications of voting, that he or she is at least 18, resides in the province and so on.

On the issue of law abiding, I think it gets a little dangerous to begin to point fingers at people. For instance, in the city of North York the estimates are that there are 20,000 to 25,000, perhaps more, people living in what are called illegal basement apartments. They are illegal in the sense that they have been zoned illegal by the city of North York. The government of Ontario has been on record back to 1985 as saying it wants this kind of discriminatory legislation taken away. In fact, the Minister of Housing (Ms. Hosek) and the Minister of Municipal Affairs (Mr. Eakins) issued a policy statement last year, which I understand there has been further action on. I am not sure of its process through the Legislature, but it is a statement under the Planning Act which would in fact get rid of all those discriminatory zoning bylaws. At the moment these people are living in illegal units, but they are hardly law-breaking people.

The final thing I would say is that the 25,000 or more people in Ontario who are being forced to live doubled up in Metro housing are not doing that because they want to; they are doing it because they do not have any practical alternative. If you or any other member of this committee has ever visited some of the kinds of housing people are forced to live in, you would understand that it is economic circumstances and the lack of affordable housing that is forcing people to be in this situation. I would love this to be a province where there was no housing crisis and everyone had a fixed address so we would not have to worry about this kind of provision. We could then make it a requirement of voting that you have a fixed address because everyone would have one. That would be fine. That is not the situation now, and it is not because people are choosing to live in these kinds of accommodation; it is because they have no alternative.

Mr. Campbell: Not to add to the convoluted argument going on right now, but it seems to me that your concerns are not met about people refusing to be enumerated because of overcrowding, because eventually when you are put on a list, it does not matter if you try to stipulate that it cannot be used for any other agency. I do not think the argument is the eviction court case that may arise; it is the knowledge of the landlord or the knowledge of someone else that in fact, by looking at those lists, that such a situation exists. I think the problem is that no matter what you do when you have a list, people will still not want to be put on that list.

I wonder if that is your experience. Let's leave aside the voting, but somebody comes to your door and somehow is trying to gain some information. I would think that those tenants would be reluctant to provide any information whatsoever about their lifestyle.

Mr. Shapcott: There is no question about that. If I was not clear enough, I think the same provisions that would allow a person who was homeless, without any fixed address, to be able to use a community address or some other address for the purposes of voting, should apply to the tenant in the situation where he is at risk of eviction if his tenancy is revealed. In that case too, they should be listed as having a community address, the office of the returning officer or something like that.

I did not mention this in my main submission. One other informal

arrangement that was worked out in one federal riding for last fall's federal election was an arrangement for the returning officer to use a local hostel for homeless people as an address for a number of people, not simply the residents of the hostel itself but also a number of other homeless people in the community.

Mr. Campbell: I do not want to cut you off. I am not arguing. That is my second question. I want to keep with specifically the doubling up or the illegal kinds of accommodation for people who have shelter. I will deal with the homeless in a minute, but I want to deal with the shelter requirements of numbers of people in an apartment.

I do not know how you are going to get around the fact that if somebody appears on a list, the tenants who are there in other than ordinary circumstances would have difficulty even adding their names if the address was the boiler room or community centre or whatever it is. I come from a community where you would not have a community centre, in a lot of these cases, and it would have to be the storage room or something that you would have as your address.

Leave that aside for a second. The names might or might not be similar, but let us take a family that is in a similar situation, with similar names, brother, sister, other relatives who would be in there. I still think they would be reluctant to add in the primary list. I am suggesting that a way around that is that if they were, on election day, sworn in at the poll, with affidavits, depending on the identification, they are citizens. If that minimum requirement is met, then once that list is in, there is really no publishing of the list at any point.

I am wondering if that is really the easiest way around this, that those people are sworn in at the poll. If the requirement is that they have a residence, that will not work. But if the requirement is that they be sworn in at the poll, and there is an address that can be put down for them, when the poll closed, that property, as I understand it, would become the jurisdiction of the province of Ontario and no further use would be made of that.

I wonder if that would be the way around this for tenants who are in that limited situation—not the homeless, but the people who are in tenancy—rather than going through a whole convoluted process of enumeration; adding on a good declaration, as I think this committee is sort of working its way towards, to try and get more of the swearing-in process going on. The list then becomes the property of the province and would not be spread around. No matter how you say that these lists are confidential, I have worked on enough elections to know that if you give it to somebody, it is immediately distributed across the system. You might have two, three, four or five scrutineers, and the list gets lost or whatever in the process. That may be a way around it.

Mr. Chairman: Do you want to deal with that?

Mr. Shapcott: Just very simply to say I think that would be ideal. I think it would be a very good situation. You may run into conflict with Mr. Breaugh's concern about wanting to—

Mr. J. M. Johnson: He is not here.

Mr. Shapcott: —make sure that there is not a last-minute dive on the polls. But as I say, as far as I am concerned, I think that would be an

ideal way to get around what I think you have identified as being correct, and that is the natural reluctance and continuing reluctance of some people. Notwithstanding all of the safeguards one might want to offer them, they would still be reluctant to have their names added to a list, but if they felt they could come in with appropriate identification and swear an affidavit on the polling day, then that would be ideal.

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Mr. Campbell: Before Mr. Johnson's supplementary, I would just like to edge in on that, if you do not mind, Mr. Johnson. The point is, though, that if we made the fines stiff enough for people who were guilty of corrupt practices at the poll, with enough of a deterrent to try to make that appropriate, if that is possible to do—I do not mean necessarily a monetary fine, but a combination, which is already in the act, that would allow that kind of stiff penalty to prohibit the kind of practice that might go on. In fact, I understand there was an alderman in the city of Toronto whose case is current with that kind of thing. They were found to have illegal names on the list.

Mr. Shapcott: Yes.

Mr. Campbell: I will yield to Mr. Johnson for his supplementary, if he wishes, and then I would like to clarify the homeless situation as well.

Mr. J. M. Johnson: A gentleman who was here yesterday morning was from the city of Toronto. I asked him about this problem and he said it was not a problem, but where it could be a problem is if everything happened from four or five o'clock to closing time. If there is such a rush, we have to make sure we do not have the system so bogged down in the last couple of hours that they cannot handle it. Your proposal has merit if there is some way we could keep from tying it all into the last part of the day, maybe an advance poll or some way that we could make some use of it, rather than just that last couple of hours. By solving one problem, we might create another.

Mr. Campbell: In addition to that, there may be a way, if we were not sure that category of voter—because presently you vote at the returning office if there was some problem.

I agree with you it is when the rush comes in. That is when everybody is busy and that is when it is the most confusing and the most prime time for corrupt practices to occur, because everybody is in a rush and they are trying to get everybody through to vote as much as possible. That proposal may have to work out through the returning office itself in the riding to deal with, but there has to be some way that allows for both concerns.

I have been involved in the United States in observing those practices. I know there are very effective ways of temporary squads of people being moved around, not buses because that brings too much attention, but private vans and getting them in, and it is very co-ordinated. I observed only, but—

Mr. Chairman: Do you want to ask another question?

Mr. Campbell: I will ask the question on the homeless. The homeless are in a situation that I think, of the two problems, is the one that on the surface seems to be the easiest to solve, and that is using the hostel as their residence. I do not know how large these hostels are, but I understand there are 200 or 300, if memory serves.

I think the returning officer has the provision to set up special polls for those people to vote in at that one location, which might help to centralize the situation and under those circumstances allow those people to be sworn in, if we use the first scenario, and to be able to vote at that time, any time during that day.

It might remove the aspect of the flying squad, given that they have the identification that they need for those purposes. I would like your comments on that kind of contact in those hostels or community centres, whichever.

Mr. Shapcott: On the specific problem of hostels, the situation is that, unfortunately, hostels maintain a fiction that homelessness is still a transitory phenomenon. Hostels in Toronto, almost without exception, especially the hostels for men, have a 10-day to two-week time period, then you are out. You could have a situation where someone could indeed be enumerated within the hostel but by the time of voting would be out and either at another hostel or on the street.

The other problem with hostels is that they by no means represent all of the homeless population. There are about 3,500 or so hostel beds in Toronto, for instance. That is the city I am most familiar with.

Mr. Campbell: If I might, I used an inappropriate term. Maybe community centre fits the context as used in Toronto's problems.

Mr. Shapcott: Yes. But taking your general point, I think it would be, conceptually and in every other way, easiest for homeless people to use a centre to which they naturally have a connection. This was indeed the basis of our conversations with the city of Toronto.

For instance, in our community centre we provide a mailing address for a number of people to have both personal and other forms of mail. We provide a number of different services for people, so it becomes in many ways a home for people. We provide meals and so on. I think using those kinds of addresses makes a lot of sense. In some cases, some of the places have such a large number of people that you could probably even justify having a polling location within them because there would be in the range of hundreds of people who would be connected in some way with that particular centre.

Miss Roberts: I have a question that goes on from what Mr. Breagh and Mr. Campbell said. My concern is that you as a community centre are taking a great responsibility in saying, "Yes, this is their address." Are you able to identify the number of people and say this is Joe Blow, etc., even though there might be 300 or 400 or however many people you have in your community centre, and accept them as people who use your hostel and therefore are within the electoral district? Would you be prepared to do that?

Mr. Shapcott: Yes, no question. I think our experience is reflected in other places. We have been at work in Toronto for 25 years and there have been people who have been attached to or using the services of our centre for much or all of that time. Many people we see on a daily basis. We did in fact during the Toronto election act as agent for certain people who did not have identification; we swore that this was their name and that they were citizens. We are able to do that with a great amount of confidence.

Miss Roberts: Would you be prepared to take the responsibility for that?

Mr. Shapcott: Oh, yes.

Miss Roberts: In a smaller area, we know everyone, or at least someone in the area can say who that person is. You are saying your contact with them is sufficient for you to say that they are Canadian citizens, because you have seen their papers at some time and have proof thereof somewhere. Is that correct?

Mr. Shapcott: That is correct, yes.

Miss Roberts: Are you prepared to do that and take the responsibility if indeed it is not correct?

Mr. Shapcott: We are.

Miss Roberts: The other thing you would have to do is make sure you do not have any particular political affiliation. That would be extremely difficult in some cases, depending upon who the manager or the executive group that controlled the community centre was, right?

Mr. Shapcott: Yes. I cannot claim the last one. Although we do not have any particular political affiliation, the executive director of our centre at one time was president of the local Liberal riding association.

Miss Roberts: That would be very difficult.

Mr. Shapcott: I am of a different persuasion myself, but I think that issue should be divorced from the question of ensuring that eligible electors get on the list. At our centre, we provide advocacy services for people and we maintain quite extensive files where we have the documentation.

Again, I would go back to a response which I believe I made to Mr. Breaugh. It seems to me wrong that we should be asking one group of electors to go through an additional set of hoops we do not ask other electors to go through. For instance, the enumerators who are sent out to enumerate virtually everyone except for small groups of people who come in other ways on to the list have quite clear political connections; they are in fact appointed or named by political parties. That does not seem to be a problem. In fact, that seemed to be a bonus.

Miss Roberts: But you are putting yourself in between; you are another layer. All I am saying is that you are prepared to take that responsibility and that you can identify the homeless, whoever they may be, sufficiently. If you have so much of their information on file, though, is it so confidential that people cannot get to that information now? We are only asking the homeless to say, "We reside in an electoral district," and that is no different from anybody else.

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Mr. Shapcott: That is right.

Miss Roberts: They are not being asked for anything particular other than to say, "We reside in the electoral area," and someone like yourself who is prepared to say, "Yes, they do, because they have attended at this particular area," and take the legal consequences if indeed it is incorrect.

Mr. Shapcott: Yes, there are quite clear penalties. I am not as

familiar with the Election Act as I am with the Municipal Elections Act. For those of us who act as agents, there are quite clear penalties if it is found that we knowingly submitted false information. That is something we understand and are quite clear about when we sign the form, but we think it is important enough to get as many qualified electors on the list as possible that we will do that.

Mr. Chairman: I appreciate very much your presentation this morning. We went a half-hour over and I think that is indicative of the fact that the members were very interested in your comments, so thank you and we will keep that in mind when we start discussing the amendments this afternoon.

The next delegation is Francisco Espinoza of the Canadian Hispanic Congress of Ontario. That is on the new agenda. You had a Mr. Lucero before, but Mr. Espinoza is replacing Mr. Lucero. Would you proceed, sir? I think everyone has a copy of your presentation.

Mr. Espinoza: I do believe so.

Mr. Chairman: It is about a page and a half.

CANADIAN HISPANIC CONGRESS OF ONTARIO

Mr. Espinoza: My name is Francisco Espinoza. I am the president of the Canadian Hispanic Congress of Ontario. I am appearing today on behalf of our executive committee and our members throughout Ontario. We believe this hearing represents a very important chapter in the history of the Canadian Hispanic community. We have devoted a great deal of thought, time, effort and discussion before appearing here today; so that we can put before you ideas and concerns that are very important to our community regarding the Election Act. We would like to make the following points:

1. Training of Returning Officers, Poll Clerks and Enumerators: These officials should not only have extensive training in matters relating to their offices, but should also have knowledge of or be given training in the languages used by the ethnic community. For example, in a predominantly Spanish-speaking area knowledge of the Spanish language would be a prime asset, resulting in better communication and increased participation by the eligible voters in the area.

2. Canadian Citizenship: The provincial government should propose to the federal authorities the fast-tracking of the citizenship process. This would give eligible candidates the opportunity to obtain their citizenship in time to participate and vote in an election. Consideration could be given to the waiving of the application fees for senior citizens.

3. Posting of Voters' Lists: When the voters' lists are completed, they should be sent to the various ethnic organizations so that they can help inform eligible voters.

4. Advance Polls: Advance polls should be advertised in the communities' ethnic media, so they can contribute to a greater and proper participation of all eligible voters in Ontario.

We believe that all election materials should be published in the major languages of the area.

We thank the committee for giving us in the Hispanic community this

opportunity to present our concerns to you.

Mr. J. M. Johnson: I wonder if we can ask Mr. Baillie to come forward to the mike.

Mr. Chairman: Yes, we will. Do you want to have a seat up here, Mr. Baillie, please?

Mr. J. M. Johnson: Mr. Baillie, on point 3, "When the voters' lists are completed, they should be sent to the various ethnic organizations," is there any reason that is not being done or cannot be done?

Mr. Baillie: I suggest there is no reason why it could not be done. Returning officers would have to be able to identify the ethnic organizations in their electoral districts, and it may well be that in each case they are, generally speaking, aware of this. I do not see that as a problem.

Mr. J. M. Johnson: There would not have to be any change in the law?

Mr. Baillie: No.

Mr. J. M. Johnson: What about item 4, "Advance Polls"? Are they advertised in the communities' ethnic media?

Mr. Baillie: We do advertise our advance polls and the advance notice that advance polls are coming up in all ethnic newspapers. That is the understanding I have, but I do not handle the insertions personally so I cannot attest to it. I believe that it is the case that they are advertised.

Mr. J. M. Johnson: Is there any way that there could be an advance list of ethnic papers that different groups would feel that it would be beneficial to advertise in?

Mr. Baillie: Yes, exactly. I get letters all the time from the ethnic communities saying, "We have this newspaper, we don't believe you're advertising in it and we'd like you to consider us." We naturally consider any request like that.

Mr. Chairman: Anyone else? If not, thank you very much for appearing before us, Mr. Espinosa. We will have the benefit of your comments and take them into consideration later on.

The next delegation is Wendy Pinder, the campaign manager for Ruth Grier, the member for Etobicoke-Lakeshore.

Mrs. Grier: I think she is describing herself as a former campaign manager.

Mr. Chairman: Anything can happen in politics. Do you want to proceed, please?

WENDY PINDER

Ms. Pinder: When Mr. Baillie gave his verbal submission to the committee yesterday, he did not highlight his recommendation or subsection 7(11) of the act on the removal of returning officers. I was here today in my former capacity as Ruth Grier's campaign manager in the 1987 election and focus on that recommendation as a result of the problems we experienced in the 1987

Etobicoke-Lakeshore election. On election day in Etobicoke-Lakeshore, approximately 30 polling places did not open at 9 a.m. In fact, many of them did not open until midway through the day and about 300 voters were turned away. Mr. Bailie saw fit to begin an investigation into why so many polls did not open on time in Lakeshore. I have with me copies of the interim report printed by his office, dated November 17, 1987.

I would like to distribute them to you and speak to that report so that you have a clear understanding of the problems that happened that day.

Mr. Chairman: This is hot off the press.

Mr. Campbell: Mine is cold.

Ms. Pinder: On Thursday, September 10, our campaign office soon became swamped with phone calls from worried poll officials and confused voters about the unopened polling places in Etobicoke-Lakeshore. As the day wore on, it became clear that about 30 polling places had not opened at 9 a.m. as required and that many voters were turned away from voting. The situation seemed totally out of control for most of that morning.

Eventually, by mid-day, after Mr. Bailie's office had stepped in, all of the polling places were opened and some of the voters who had been turned away in the morning returned to vote, so that it was concluded in the interim report that only about 150 voters had actually lost the opportunity to vote.

I would like to add, though, that through the course of the day I had virtually no co-operation from the local returning officer and by the time the polls closed I felt that I had lived through my worst campaign nightmare.

Mr. Bailie supervised an investigation through his office to determine what had caused the late opening of the polls in Etobicoke-Lakeshore. In total, 68 people were interviewed and all available documentation was reviewed. I would like to draw your attention to certain information contained in the interim report.

On page 2 of the report it states that the returning officer was asked to provide the names of the poll officials who failed to report to the late-opening polls on election day. She was asked again on September 16, at the end of September, by a hand-delivered letter on October 2 and on October 20 in a letter from the legal counsel of the chief election officer giving her a deadline of 5 p.m. on October 22.

On October 22, the returning officer provided, by letter, eight names. A subsequent letter went out to her from the chief election officer advising her that eight people could not have caused the late opening of 30 polls and she was again requested to provide the information by 4:30 p.m. on Monday, November 2. On November 2, the returning officer provided a chart showing the number of replacements or reassignments of officials made in each poll. All of the above information was investigated.

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Of the eight names that the returning officer gave, four people were available to work but were either not properly informed or were not contacted. One refused when he was not informed until 1 a.m. by phone the night before election day, one refused because she would lose her vote, one was ill and one refused because she had no adequate transportation. The interviews are recounted in detail in the interim report and I invite you to review them.

Of the chart the returning officer provided showing 88 replacements and/or assignments with no names provided, only 60 changes could be found by the investigators once the records were examined. A further analysis of these 60 changes concluded that only 13 names were left of persons who could have contributed to the late opening of the polls.

Mr. Bailie concludes in his report that there was no evidence of any corrupt practices of the Election Act offences for political purposes. What he does conclude in paragraph 3 on page 14 of the interim report is that the information received during the investigation "suggests the possibility of serious administrative problems in the returning office on Tuesday, September 8, and Wednesday, September 9."

Since returning officers are not employees of the chief election officer, my understanding is that the final report of the Etobicoke-Lakeshore election was delivered to cabinet as an internal personnel report and that no one else was privy to that information.

As a result of having been through this experience, I have several concerns.

First, I would urge the members of this committee to support Mr. Bailie's recommendation with respect to returning officers. On page 3 of his report to this committee, he recommends that he be given the power to remove a returning officer who fails to discharge his duties competently at any time. At present he has this power only during an election period. This would severely limit his ability to remove the returning officer, because to remove a returning officer during an actual election period would be very difficult. It is likely that he would reach that conclusion only in the final stretch of the election period, when the pressure is greatest on a returning officer, and having to find a replacement at that time would be the worst possible time for everyone involved.

Second, the fact that these returning officers are not employees of the chief election officer makes it more difficult to encourage them to comply with the act, as in the case of the returning officer for Etobicoke-Lakeshore which I outlined earlier.

Third, as I have already stated, the final report on this particular election was kept entirely confidential because it was a report to cabinet and was considered an internal personnel document rather than a report from the chief election officer on the election period. Although there is no guarantee, I would hope that if these returning officers were employees of the chief election officer, the final report would be a public document, just as this interim report was treated.

Fourth, because Mr. Bailie loses his authority to remove returning officers after the election period, we have no way of knowing whether a returning officer will be reappointed, since it becomes a matter for the cabinet. If the returning officer is not found to have discharged his duties competently, then he should be removed once that determination is made. It is not fair to the returning officer nor to the rest of us that the appointment continue until it is time to review it for the next campaign.

Fifth, if the returning officers were employees of the chief election officer, there would be a more direct relationship between the employer and the employee and, hopefully, a more responsible attitude on the part of the returning officers as a result.

After election day in Etobicoke-Lakeshore, the returning officer made several comments in the press that were entirely irresponsible on her part. Both in the printed press and on television, she accused the Lakeshore NDP of trying to subvert the democratic process and she made derogatory comments about Mrs. Grier and our campaign. All of these comments were totally unfounded and offensive to both Mrs. Grier and myself and to many of her constituents who called our office to complain. Clearly, the returning officer should have been prohibited from making these statements, and even when no evidence of political corruption was found, no apology was ever offered.

For these reasons, I feel that extending the power to remove returning officers at any time to Mr. Bailie would go a long way towards solving some of these problems. It is entirely possible that this sort of situation could recur, and there should be serious consideration given to preventing anything like this from happening again. It is in our best interests as people involved in the political process to preserve the integrity of the election process. The situation that day in Etobicoke-Lakeshore cast a real shadow over that process in the minds of many voters.

Finally, I would like to draw your attention to the recommendation, on page 7 of Mr. Bailie's report, on the appointment of poll officials. Mr. Bailie recommends that section 39 of the act be amended to allow returning officers to appoint only persons they believe to be capable of adequately performing the duties of a poll official. If this recommendation is approved, the returning officer is not accountable to anyone for his decision. I would like to add to that recommendation that the returning officer be made to provide the decision to reject someone's name in writing to that person at least seven days in advance of election day with a copy to the candidate to prohibit the returning officer from making a decision without a justifiable reason.

That is it.

Mr. Chairman: Thank you very much. Do members have questions?

Mr. Sterling: I would just like to congratulate you on bringing this forward. In bringing it, you are much more succinct and direct than the person you elected.

Mr. Breaugh: This is going to cost you, Mr. Sterling; there is going to be a lot of pain.

Mr. Sterling: In my riding we had a few problems as well. We had a principal who closed down polls during September 10, 1987. It was in a school, of course. It was not clear whether or not the returning officer had the power to go out and do something about it. It was very difficult to get quick action. So I think it is important to give powers in clear, unequivocal terms to the people who are in charge.

Ms. Pinder: Yes, I think there is no question that it would go a long way towards solving some of these problems if there was that clear line of authority.

Mr. Epp: I have a short question on your comment about the returning officer making comments to the press. How do you prevent officers from making comments to the press in a free and open society?

Ms. Pinder: I appreciate that difficulty. I considered that when I

made this recommendation. However, I really do think that if there was a clear employer-employee relationship between the chief election officer and the returning officer, that would go a long way towards preventing this sort of thing from happening. I think people would be less likely to go ahead and abuse that sort of freedom they have if they felt that they had an employer they had to answer to.

Mr. Epp: I am not trying to justify what you said, I am just saying that often returning officers speak to the press. They often give good, accurate information and everything else. You have got to give them the option to speak to the press, but at the same time I am not justifying it, given the negative comments she made.

Ms. Pinder: I am not suggesting that she should not have had the opportunity to speak to the press. I think we all spoke to the press. It was very difficult to avoid them that day. Clearly, the sort of comments she was making were out of line.

Mr. Breagh: Part of the problem seems to be that Ontario has always used the notion that the local deputy returning officer and returning officer are a pretty independent operation, appointed in a different way and accountable in a mysterious way.

You are making a pitch, then, as Mr. Bailie has, that we should have a more direct accountability format for that. I do not think anyone wants to stop a local official in any capacity from speaking to the press or from providing information, but I would be taken aback somewhat if the judge in a trial came down off the bench, went to the back room and said to the reporters, "Boy, this guy is really guilty, and next Friday when we pass sentence on him we are going to hang the bugger." Most of us would think that is not quite appropriate behaviour.

In many senses, the local returning officer is in the same position. That is the person who may, at some point in time, provide the report to the Legislature which says: "Something went wrong in this election and here are the facts as I know them. Here is what kind of action should be taken." But that is at the end of the process. If they start the process by saying, "This is the crook and I will figure out later what crimes he or she has committed," we have a little difficulty with that.

Would it resolve the problem if the job of local returning officer was more of a full-time position; if they had jobs to do and specific responsibilities between elections and had an ongoing relationship with the chief returning officer?

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It seems to me that in this case and in others I am familiar with, part of the problem is that you really do not know that something has gone wrong until it clearly has gone wrong. Until the polls do not open, you have not much of an idea of whether the administrative work in that riding has been done. I think what happens there is that the chief returning officer gets put in a rather untenable position. What do you do it if it is election day and the polls were supposed to be open an hour ago and they are not? How do you find out how many are not open? How do you get them open? There is that problem.

Would some of this difficulty be resolved if this position were of a

more permanent nature with more direct lines of accountability established to the chief electoral officer?

Ms. Pinder: I think so. I heard your comments yesterday on this. I think having some sort of training available, perhaps on a yearly basis, would go a long way towards helping it. I am not sure I would call the position full-time, but certainly if there were an understanding that if you were appointed as a returning officer you have obligations and responsibilities over the course of the period between elections and that you have a responsibility to know the act and be familiar with the regulations and you are given time to do that and you are paid for your time, I think that would make a lot of sense. I think what we have to look at is a returning officer who is a more professional person, someone who is more accountable to the chief election officer and to the rest of us.

Mr. Breaugh: I do not think I would support the notion that this is a full-time job, but I would suggest that there is a full-time appointment here and that a local returning officer has to be mindful that there has been some change in the local demographics, and if an election is called this fall, which is always possible in our system, that cannot quite be in a vacuum. For one thing, a problem that has been mentioned to me in more than one riding now is that you sometimes cannot find the person who is the electoral officer in charge of that election until several days after the process has begun; you do not have a phone number and you do not know where that person can be reached and there is no local office. That can be a little dicey when people are chomping at the bit to get the process started.

I am not really making an argument that it become a full-time job, but the appointment would be for a set period of time, and perhaps there would be some annual obligations to observe local demographics or take a training course or be aware and some local place where you could make contact with that person.

Ms. Pinder: I think that would make a great deal of sense.

Mr. McClelland: I have a supplementary. As I look at the act in its present form, subsection 7(8) provides implicitly, if we were to presume that the chief election officer had the authority in the proposed revision of subsection 11, that the chief election officer would have the authority under subsection 8 to remove a person for failing to comply with instruction on an ongoing basis. I just sort of say that as an add-on to what has been said.

I am curious that both Mr. Bailie and yourselves have not made comment with respect to the appointment. We seem to be focusing on the possible removal of an official. I am wondering if you have any wisdom or insights you would care to share with respect to the appointment of people for the office?

Ms. Pinder: I have given this some thought. I am not familiar enough with how well the act in Quebec works. However, I find the whole idea of actually advertising and hiring returning officers and having them write an examination, or at least have certain qualifications that are stated in writing, more desirable than what we have now.

More often than not, most of the returning officers we have now are probably okay, but as time has passed, the public has had less and less respect, I think, for the entire political process. I think that having these people as nonpartisan individuals who are more responsible would go a long way towards making the whole process seem more credible in the eyes of the public.

As I have said earlier, I think the whole question of accountability is very important.

I heard some of the comments yesterday that sometimes when you ask these people questions, you do not get answers. Sometimes they do not accept your phone calls. It is very difficult to get around that. You can complain to the chief election officer, as I am sure everyone does, but it is very difficult. It is a very small period of time. We are all working very hard and there are only so many phone lines. It is very, very difficult.

So if we were getting people who were more professional, who were more responsible—and if that means advertising for these positions and requiring certain qualifications, I think that would be more desirable than what we have now.

Mr. McClelland: It just seems to me that—I do not mean to be presumptuous, Mr. Bailie, in any sense and I know you will speak for yourself in due course—if I were looking at the proposed amendments to subsection 7(11), removal, I would also be concerned about subsection 7(1) which is appointment. It seems to me they go hand in hand.

To invest in an individual, to give him or her the authority to remove an individual without some sort of concurrent jurisdictional input or sharing in the initial appointment or recruitment of those individuals, seems to me to be going halfway. I think that we should seriously consider that. I would ask, Mr. Bailie, at an appropriate time as we get into deliberations, for you to give us your considered opinion on that matter.

Ms. Pinder: I would just like to add that I would encourage the committee to do that, but I would also be very disappointed if you chose to delay on accepting this particular recommendation on the removal of returning officers so that you could examine the appointment of them. I really think that taking this first step would help.

Mr. McClelland: I understand what you are saying.

Mrs. Grier: I just want to bring out one point, Ms. Pinder, which I do not think you mentioned, which is the fact that now the chief election officer's authority to remove only exists during the election campaign. In our situation, there seems to me to have been some indications prior to the calling of the election that there had been some problems. Were we not the last riding in Ontario to get our revised poll maps and those things? Yet in that period, would you not agree that Mr. Bailie had no authority over this individual?

Ms. Pinder: Yes.

Mrs. Grier: Your recommendation would extend that authority not only after but before the election as well.

Ms. Pinder: Yes. The returning officer in Etobicoke-Lakeshore had done that job for some time. We were having problems with her, even before the writ was issued, in getting our new polling maps. At the time, I thought that the delay was being caused by the number of changes that were being made to the different poll boundaries. But when we finally managed to get the maps, there really were very minor changes made to the existing poll boundaries and there never really was a reason given for the delay. So there were problems at the outset.

Mr. Matrundola: I really have a problem understanding a problem for 30 polls that failed to open. There must have been some problem with the returning officer of the area or the people appointed as deputy returning officers and poll clerks. Probably we should try to curb this problem.

Imagine if this was to happen in several ridings. What would Mr. Bailie or the chief election officer of the time do? It might be wise to take into consideration the possibility of appointing a number of people between the DROs and Mr. Bailie, perhaps one for Metropolitan Toronto, one for York region and one for Peel, one for each region.

You want a person in the middle so that if a problem were to arise with the returning officer, the DROs or the poll clerks, it would not necessarily go to Mr. Bailie. Imagine if everyone in Ontario from 130 ridings were going to go to him. He really would not know what to do. But if there were people in between, these people would be able to take that responsibility.

In addition, it might be wise to perhaps have some reserve DROs and poll clerks, because if for any reason a number of them were to fail to show up, one would have a reserve, even if one were to say: "Okay, the poll clerk gets so much, the DRO gets so much, you on standby get so much. If we need you, we'll call you in. If we don't need you, we don't call you in," some sort of consideration.

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Perhaps it might also be wise to have a seminar on a yearly basis for DROs and poll clerks, so they have an idea. People who are interested in taking that job at election time once a year would spend a day at a seminar and would be familiarized with all these things so the election could run much more smoothly.

Mr. Chairman: Ms. Pinder, do you have any comment? It was more of a statement than a question.

Ms. Pinder: Not really, unless Mr. Bailie would like to comment on that.

Mr. Chairman: We will wait for that this afternoon.

Mr. Campbell: There are a number of things that happen during an election that are unusual and almost nonexistent at any other time. I know there was a very serious problem here and I do not mean to take away from that. But I sense that if you try to fix this problem, others are going to crop up.

With regard to the permanent returning officer, for example, in my community a number of people serve in the federal, provincial and municipal elections. That is not a problem if all the rules are the same, but they are not. I have seen instances where in a municipal election they are using provincial rules and they are using federal rules, and it really gets to be a hassle.

This is an informal arrangement where the city clerk and the returning officer, both federally and provincially, have a list of people who are all ready and willing during each election to serve in that capacity. There is a problem in that the number of people who are in this pool and have traditionally been in this pool, if I can use that term, is declining fairly rapidly.

Either they are becoming of an age where they are not interested any more or able to do the job or, increasingly, you are finding people who are not permanently affixed to that community or the polling subdivision, which was attested to yesterday. They may be students; they may be people who are not available four years hence or eight years hence and therefore are not in a position to do the job.

I wonder how many you would actually appoint in a riding. In my riding, just by rough calculation, you probably would have about 30 per cent of the returning officers and poll clerks who would serve from one election to another, and it is declining as those people age or for whatever reason. Increasingly, it seems more of a one-shot or temporary kind of situation where you do not have the continuity.

I do not know if it is the same in your riding but I suspect it is somewhat similar. The only way you could get around that is that if you had a permanent person, you would have to pay them at some point as part of their motivation, and I am not sure what would be an appropriate rate of pay for those people if you want to appoint them permanently.

Ms. Pinder: Are you talking about returning officers or poll officials?

Mr. Campbell: I am talking about poll officials. Sorry. The returning officer obviously has that job and performs it and, in the interim, has certain responsibilities. The polling officers themselves are basically not the same from one election to another, by and large.

Ms. Pinder: Certainly it is not my recommendation that the polling officials retain their position between elections. I am not sure I feel that is necessary. I was really speaking just to the position of returning officer.

I do recognize that there is some difficulty in recruiting poll officials and that the lists are getting smaller. In fact, in our last campaign, we were very active in recruiting people from across the community, trying to get new people on the list, because it is becoming a problem. I know a lot of the returning officers had problems getting people to fill those positions but, in my eyes, that is a whole other problem.

Mr. Campbell: Yes, I recognize that and I was going to deal with that. Going back to your specific problem, though, the notification you got that the polls were not opening on time and that there was a problem, you seemed to indicate it was about an hour before you had an indication of-----

Ms. Pinder: Oh, no. We knew even before nine o'clock that the polls were not opening, because we had people who were supposed to be working in them and could not get inside calling us.

Mr. Campbell: Right. That is what I wanted to clarify. It seemed to say that there was some delay in notification, but you are saying that the remedy was late.

Ms. Pinder: The remedy was late. It took us about an hour to figure out how many polling stations were being affected and more or less get a handle on what was going on. The situation really was not resolved until about midday. I suggest that it was resolved when Mr. Bailie and his office staff came down and helped to resolve it.

Mr. Campbell: And actually filled in and did the work until it could be straightened out.

Ms. Pinder: I am not sure. I cannot answer whether they actually did that or not.

Mr. Campbell: I will ask Mr. Bailie. Okay, that is fine.

I think, though, that when you are trying to meet some specific, fairly localized problems—I did not hear on a widespread basis that any other riding had the same problem to the extent you did. I am not sure; certainly my riding did not—but it may be suggested that there be some surplus number. I recognize that you cannot get these people all the time, but there could be some extra people who are allowed to go in on a basis of getting the thing organized, especially if it was that big. Maybe that is already done.

I am not sure whether you could move that many people in that quickly if you were not sure until midday what was happening. I am sure the returning officer was in somewhat the same quandary.

Ms. Pinder: In some instances, I believe they doubled up in the polls. Really, it is not that difficult. For instance, you might have an actual station with about seven different polls in it, and perhaps two of the seven did not open. The people manning the other five could then double up and open up the other ballot boxes.

I believe that is allowable under the act, and in some instances that was done. In others, I believe there were some members of the armed forces brought in to fill in some of the empty spots. It was a combination of different things that eventually got them open.

Mr. Campbell: So, it is not an impossible situation to suggest the problem was not with actually getting the polls open with whatever suggestions that you had happen, but merely trying to get the thing organized to make sure that happened.

Ms. Pinder: That is right, yes. There was a real lack of co-operation, and it seemed to me that the situation was simply out of control.

Mr. Campbell: Are you prepared in your report to suggest where that lack of control came out?

Ms. Pinder: In the interim report, it does say that there were serious administrative problems in the returning office on the two days prior to election day. I agree with that wholeheartedly and I think those were largely responsible for the lack of people at the polling stations and the general confusion.

Unfortunately, through the course of the day, when the polls were not opening, there was really no one on top of the situation enough to be able to communicate to the people in the different polling stations what they could do to remedy the situation. If there had been that sort of action taken early enough, I think the polls would have been opened a lot earlier.

Mr. Campbell: Until Mr. Bailie was notified.

Ms. Pinder: Yes.

Mr. Campbell: Then once he was notified and moved in his—

Ms. Pinder: Yes, things seemed to fall together.

Mr. Chairman: Any other questions? If not, thank you very much, Ms. Pinder, for the presentation.

That concludes the presentations. If you wish, we could have Mr. Bailie up here to respond to this particular situation for the next 20 minutes or so. Then we could recess for lunch and come back this afternoon; or we can recess right now and then come back at 1:30 or 2 p.m., whatever you wish. I am in your hands.

Mr. Bailie, would you like to come up here and respond now, or do you want to leave that until this afternoon?

Mr. Bailie: I would like to respond initially, and we can deal with it in greater detail.

Mr. Chairman: Okay. Why don't we go until 12 o'clock, then come back this afternoon at 1:30 or 2 p.m., depending on the members?

Mr. Bailie: Dealing first with the last point discussed, because it is closest in your memory, it was very clearly a case of very poor administrative procedures being developed.

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We had very little warning, because although the particular returning officer may not have been well liked, she scored very high in the previous elections. But she not only had difficulty organizing, she certainly had difficulty following instructions of the chief election officer in order to overcome the situation quickly.

We did hear, thanks to the New Democratic Party, very early in the day that some polls, or a poll, was not open. When we contacted the returning officer, we got some kind of story that, "Well, I am not sure that is true, but we have sent somebody over and it will be opened," as if we were talking about one poll.

We got very conflicting information. I insisted that a senior member of my staff, my executive director, speak personally to the returning officer. This was on election day at about 9:15 or 9:20, which as you will respect, is a very busy time. This seemed to be literally impossible.

My executive assistant was instructed in no uncertain terms to just stay on the line or call and recall until he actually got the returning officer on the line. We have a special phone installed in each office. It is to be used for no other purpose than for me to reach the returning officer or the returning officer to reach me. We are not talking about busy telephone lines here. There is a special one installed. Some of them refer to it as the hotline.

They are told they are not to use it for any other purpose, and we check. If I happen to call a returning officer on that line and it is busy, when I get through on the public line, I always say, "Were you talking to somebody in my office?" If they were talking to my assistant, we accept that. We double-check. We do not allow a busy signal to go by without a check. This line is free.

It was not possible for me or my assistant to get her on the line, which is just unheard of, so I decided to go out there personally. When I arrived

there, I was told very clearly: "Yes, it's true. There were a few polls that were not open, but it is being taken care of." I did not go and visit each one of the polls because we did not in fact have a list. The information was developing as time went on.

Anyway, to make a long story short, the polls were opened by intervention of my office and instruction to twin the polls, an instruction that is already in the training system and right in the act. Returning officers have that authority and it is usually made quite clear to them, because as Mr. Campbell suggested, it could happen anywhere and so forth.

There were several factors that contributed to the problem. We made a detailed investigation. I decided it was a serious enough matter that we actually hired additional staff with investigative authority and experience to look into it in detail. You have been given a copy of the report, and I was certainly pleased to hear that the presenter had more or less said that she felt the report covered the situation well, with the one exception.

I hope you will forgive me. When I am making a report to the House, to start instructing cabinet as to how it should appoint returning officers is the point at which I stop and leave it to you.

There are so many things I could comment on in the report. I think some of the suggestions made are good. I think you should know one other thing, getting back to the presenter's points. Up until December 14, 1984, the chief election officer did have the authority to replace a returning officer at any time. For some reason I am not aware of—it was not shared with me—at the 11th hour it was changed in the Election Act, just before what we call the new Election Act was passed in 1984. I do not know why.

Mr. Chairman: Would that have assisted your position, where you could have at that particular time replaced the returning officer in that riding?

Mr. Bailie: Let's face it, it would not have really assisted the situation. We learned of this, that we had a serious problem, at 10 o'clock on election day, and as the presenter has already said, she is not suggesting we replace a returning officer in the middle of the day.

Mr. Chairman: But if she is not co-operating?

Mr. Bailie: Yes, it would still be helpful to have that power.

Mr. Chairman: If she is not co-operating and you get to a point where you are asking her to do something and she does not do it, you are trying to get things as close to normal as possible and she is not co-operating, at some point you have to cut the umbilical cord and either say, "Get out of here," or not.

Mr. Bailie: It is true, sir, that if someone continued to ignore instructions, it would be helpful to have it even at, say, four o'clock on election day. However, to answer your specific question—would that have helped this situation—I am not sure it would have been wise to do that, because once I went to the office it appeared clear that my instructions were followed. I had somebody remain there to keep me informed and the matter was, even in the words of the presenter here, soon taken care of.

However, I just wanted you to know that is a recent change in the

Election Act. It would not be a big thing to just take those three words out of that phrase, which said at the time of "an election period."

Mr. Chairman: While we are on that, I am just unclear how you filled the---there were 30 polls affected and you doubled up on some of the polls? Did you double up on all the polls? Did some people come in late and not initially open the polls? How did you correct the 30 polls?

Mr. Bailie: Nobody in fact arrived late. We put officials into positions. Contrary to what it might sound like, the polls did not fail to open because somebody arrived late. It seemed to be uncertain who was supposed to arrive and other people, like standby deputy returning officers whom Mr. Matrondola suggested we should have and whom we do have standing by, were employed and put in. So polls opened a little late, but those people were not in fact late; they were put in as the solution to a problem. What we found was that it was not clear who was supposed to be coming out to polls.

Mr. Chairman: If you were able to put people into polls, where would you get them all of a sudden?

Mr. Bailie: We have a system of standby DROs.

Mr. Chairman: In Metropolitan Toronto, and you bring them in from other ridings?

Mr. Bailie: No. In each electoral district a returning officer has---say in your electoral district, we would say to the returning officer: "You should probably have four or five. We will leave it to your judgement because we cannot know the scene." In another, say Mr. Johnson's, they might have four or five. In a city centre riding like St. Andrew-St. Patrick, that returning officer would probably have maybe 15 or 20, because we have this experience all the time.

Though this is the only electoral district you have heard about, in the three or four electoral districts surrounding this one we had similar problems, except that the returning officers and the election clerks stayed up many hours into the night, made final arrangements and got the polls all open before it came to anyone's attention. So we had similar problems. It is just that we were unable to cope in this one case because of administrative problems.

The one final thing is that Alan Stewart actually interviewed all these people and he might be able to tell us if some of the people who were appointed and were clearly understood to be at this poll or that poll in effect arrived late at the polls. Is that true?

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Mr. Stewart: My recollection is that there were 36 or so polls that opened late. This a rough recollection. Let's say 24 or 25 of them were eventually opened through twinning with other polls, or doubling up. The other 11 opened through various means. There were, let us say, two or three where poll officials simply arrived late and they opened within a reasonable time thereafter.

The others opened through a number of means. For example, while there were polls where no poll officials had showed up, there were also polls where three or four poll officials had showed up for the same poll; that is, there

had been confusion which poll officials were assigned to which poll. There were 11 or so polls that opened through getting people who were in fact ready and willing to work to someplace where there were people who wanted to cast ballots.

Mr. Bailie: The final thing, because I know we are going to discuss this in detail later, is that I notice Mrs. Grier said it had not been settled that this young woman is going to be the campaign manager. I certainly do not want to create problems for you, but do not be surprised if you find somebody has hired her out from under you. Actually, I agree with the points she has raised. I did not put her up to say all those things. I was a little nervous about what she was going to say.

I think the difficulties can be overcome. We have in mind several ideas, two or three of which were touched on here by members of the committee.

I said to Alan Stewart, "I'm really impressed with the comments made by the members today"—the same people who were here yesterday—"their understanding of the Election Act, the election procedure and solutions that would be helpful seem to have really improved considerably." I am not trying to criticize what happened yesterday. I am just saying that with so many of the things suggested, I thought, "We've already got that on our list," or, "That's pretty close to an idea we're thinking of," and so forth. I must say that in regard to the problems we have discussed this morning, the members seem to have a very clear understanding of what we are faced with and some of the alternatives we need.

One final thing, if I may, before you might want to break and we will go into these matters in a stricter order: About a year prior to the last election, I made a submission to the Board of Internal Economy that I wanted to establish a position of training officer. I felt there were different things being added to the Election Act and to the work a returning officer has to do and that the point had come where we had to be much more professional in instructing returning officers and their assistants, the election clerks. This request was turned down.

It was unfortunate. The need was definitely there, so my executive assistant had to actually take over that role and we each had to do different things to still accommodate the same plan, but it was obviously not going to be quite as effective.

In my proposals for the new office, which had to be run by the Board of Internal Economy no more than a few months ago, the request that I have a training centre, which is another matter that became very clear to me over the last few years as absolutely essential, was questioned really closely.

We are somewhat aware of some of these matters that have been identified as weaknesses. We are restricted by the legislation in some cases, as has been identified. We all have to operate on budgets and approvals and so forth, and that is the way it should be. I want you to know that my staff have made recommendations to me that clearly indicate where the weaknesses are. Because we work on a full-time basis, we have plans to overcome these as they occur, but we really need the kinds of approvals we are seeking.

This situation in Etobicoke-Lakeshore was really—I guess the interesting comment I could make is this: I hope Mary Cacciaccaro will forgive me for saying this, but she happened to be in this office about five or six days before election day because her husband—they live in the electoral

district—needed to vote at the returning office because he was going to be busy on election day.

This returning officer was so well organized she had instructed my assistant to make sure that if any of the new returning officers in the area—we had a lot of new returning officers, you see, and here we are talking about an experienced one—needed extra poll officials, they got in touch with her, because she had more than she actually needed. She had everything all organized and she had more trained and ready to go than she actually needed. This was—what?—five days before.

Ms. Cacciaccaro: It was the last Saturday before the election.

Mr. Bailie: So it was six days before. That was the latest report, because we do kind of keep in touch with them. We thought: "Wow! Isn't that good? We do have a lot of new returning officers and that, if true, could be very helpful."

Mr. Chairman: I know from my own experience that nothing will compensate for a good returning officer no matter how many regulations you print out. In 1985, my returning officer at that time did not even know the alphabet. You can write down that they have to know the alphabet, but in fact, my name was second on the ballot and it should have been first.

We had all kinds of complaints in 1985 from university students. I have two universities in my riding. Then in 1987, I had one complaint. They had all diminished. I had a new returning officer, but there were the same regulations essentially. So really, we can change a lot of things here, but essentially it comes down to the appointment of a returning officer who is conscientious, who is going to try to do a good job, and who anticipates problems in training, etc.

Thank you very much, everyone. Is anyone anxious to come back at 1:30 p.m.? If so, we can. That would afford us an opportunity to get out earlier. Otherwise, we will come back at 2 p.m., whichever you wish.

Mr. Campbell: At 2 o'clock.

Mr. Chairman: This meeting is adjourned until 2 p.m.

The committee recessed at 12 noon.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

REVIEW OF ELECTION LAWS AND PROCESS

TUESDAY, APRIL 11, 1989

Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)
VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)
Breaugh, Michael J. (Oshawa NDP)
Hampton, Howard (Rainy River NDP)
Johnson, Jack (Wellington PC)
Matrundola, Gino (Willowdale L)
McClelland, Carman (Brampton North L)
Morin, Gilles E. (Carleton East L)
Sterling, Norman W. (Carleton PC)
Stoner, Norah (Durham West L)
Sullivan, Barbara (Halton Centre L)

Substitutions:

Cleary, John C. (Cornwall L) for Mrs. Sullivan
Sola, John (Mississauga East L) for Mrs. Stoner

Clerk: Forsyth, Smirle

Staff:

Yeager, Lewis, Research Officer, Legislative Research Service

Witnesses:

From the Office of the Chief Election Officer:
Stewart, Alan, Special Adviser (Legal)
Côté, Michel, Information Officer
Baillie, Warren R., Chief Election Officer
Cacciaccaro, Mary, Administrative Assistant

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, April 11, 1989

The committee resumed at 2:12 p.m. in room 228.

REVIEW OF ELECTION LAWS AND PROCESS
(continued)

Mr. Chairman: Can we start going through the bill? Is there any particular approach that you want to use? Everybody has the benefit of the Election Act, 1984, the notebook that Mr. Bailie and his staff kindly provided us with. I think that is excellent, because you can make notes on the right. Should we start with section 1 and then go through?

Mr. Breaugh: I was going to suggest something a little different for this afternoon.

Mr. Chairman: Okay, go ahead.

Mr. Breaugh: Then maybe tomorrow I think it might be useful to go through it clause by clause. There are a number of issues that have been identified in the report of the chief election officer, which I think is probably a better place to start for today.

Mr. Chairman: Yes.

Mr. Breaugh: I also thought that yesterday we wanted to get from the French-language services advisory committee its report on the use or the billing of services according to Bill 8. I wonder if we have a copy of that yet or could get one before we begin? I indicated yesterday I would like to see the five-year plan that the chief election officer has put forward to that group, so that we can compare notes.

Mr. Chairman: Mr. Bailie and Alan Stewart were going to look at that and bring us up to date on it.

Mr. Breaugh: Yes, but basically what I would like to do is have us go through those general issues this afternoon and then maybe tomorrow we might be able to go fairly quickly through the clauses.

Mr. Chairman: Okay. For the benefit of the committee, since we are fairly flexible today, is there any particular time we should aim for to get out of here? Like 4:30, or do you want to go later?

Mr. Breaugh: I am going to have to leave you before then, between 3:30 and 4 p.m.

Mr. Chairman: Do you want to go through it only until four today and then come back tomorrow?

Mr. Breaugh: Sure.

Mr. Chairman: One of the things on my agenda, folks, is that I am just thinking that what we would like to do is get as much done on this bill

before tomorrow night as possible. Once we get into the regular session of the House, it takes a week or two before the committees are appointed, etc., what with the new House. Then we also have freedom of information to discuss, and I would like to leave that for the summer primarily.

Mr. Breagh: I do not know if it is possible, but I thought that if we pulled the issues out of it this afternoon and dealt with them, tomorrow we may actually be able to do the bill in clause-by-clause form, because hopefully we will have resolved the issues.

Mr. Chairman: Okay. I do not think there are a lot of—

Mr. J. M. Johnson: I feel that we can do the bill quite easily tomorrow.

Mr. Chairman: By tomorrow?

Mr. J. M. Johnson: Yes.

Mr. Chairman: Okay.

Mr. J. M. Johnson: I do have to leave at three o'clock, but Mr. Sterling will be here and will stay.

Mr. Chairman: If everyone agrees, we will meet till four o'clock and try to deal with the issues today and then finish up tomorrow, if at all possible. Okay?

Do you and your staff want to come up, Mr. Bailie? Then we can deal fairly informally with this whole matter. Interrupt me when you wish, but not too often.

Mr. Stewart: With respect to the French-language services issue, I consulted with Lorie Wells, who is the chief election clerk of the office, that is, Mr. Bailie's second-in-command. She would be with us, except that she is in Newfoundland assisting the chief electoral officer there with the election.

I am not sure I have what Mr. Breagh wants, but I was referred to the section on the office of the chief election officer in this binder which deals with the provision of French-language services in the agencies of the Legislature as a whole, including the caucuses, the Office of the Ombudsman and so on.

With regard to the question of French-language services in the chief election office, I have the report of the co-ordinator of French-language services in the assembly at the time of the institution of the French Language Services Act. At that time it was Ms. Phillips. This is a document approved by the Board of Internal Economy on November 24, 1986. This is not the document that is in front of you, but I will just quote from it. At that time, their assessment was:

"The office of the chief election officer is very well equipped to offer service in French. The office provides a vast array of support materials, forms, press releases, advertisements, public information and stationery. Even the cardboard 'voting booth' presents information in both English and French.

"Aside from a strong collection of support materials, a fair number of

returning officers across the province are bilingual. The quality of service in French is linked to the appointment (by order in council) of officers, in designated areas, who can offer service in both English and French."

With regard to the provision of services in the office itself, its staff is now prepared to offer in bilingual form whatever services are required. The area of forms is one of concern. In the election of 1987 there were not as many bilingual forms used as would be desired, because at the time the French Language Services Act was passed the election office was already stocked in expectation of an election which might occur at any time and it was decided to go ahead and use much of that material in the election of 1987.

The policy of the office now is that every form which may be used by a member of the public at large is bilingual, and for the next election that policy is to be extended so that every form which the public in a broad sense, including candidates and political parties, may use will be bilingual. That is the extent of bilingualism in forms that is planned for the next election.

The question of the appointment of returning officers and staff, as I think was made clear, is not within the jurisdiction of the chief election officer. In training sessions, every returning officer in a designated area is advised in as strong language as possible that it is essential in the view of the office that there be a person immediately under the returning officer who is bilingual if the returning officer is not and that staff should be available in the office to handle any sort of inquiry in the French language. Again, technically, appointment of these personnel is within the power of the returning officer, so there is no sanction that the chief election office, as a unit, can exert. That is the policy.

I hope that is at least helpful. If there is some additional information, perhaps we could provide it for you tomorrow.

1420

Mr. Breaugh: Part of the difficulty I have is that both of the groups who appeared before us yesterday, to put it kindly, were asking for things which are not on the books. Ontario is not yet a bilingual province officially, and I think that, to be on the safe side, we would only be reasonable in asking that the office conforms with the provisions of existing legislation. I do not think that it is the role of this committee to strike out in some other direction, however we might feel about that individually.

Is there such a thing as a report by the French-language services advisory committee on the work of the chief election officer? I thought there would be.

Mr. Bailie: The paragraph that was read first is—

Mr. Breaugh: Was that an excerpt from it?

Mr. Stewart: No, that is not from that report.

Mr. Breaugh: Just going over what you did provide us with, this is kind of an internal audit of how many positions are designated and what forms should be filled out. I think where I am having a bit of problem is that there is no real legal requirement until the end of November of this year to do this, right?

Mr. Côté: The 18th.

Mr. Breaugh: We may just be a little bit premature to pass any judgement or even make recommendations until there is a legal obligation to do so. Until that point we have the advice of the advisory council and we have a report of the plans that are being done. I am not sure that we can do much more than that.

There are also some other matters. If, for example, the local returning officers are to be brought directly under the control of the chief election officer in some way, then the policies and the practices of the office of the chief election officer would apply to them. As it stands now, they really do not. Unless we do the one thing first, we cannot very well do much more elsewhere.

For me, I would be content if Mr. Bailie made a note in a subsequent annual report or something of that nature where he addresses himself to the matter of the provision of services in the French language and how he intends to deal with it. If we do change the law to make the local returning officer have some kind of direct-line relationship or we change that appointment process, then maybe we can rightfully ask Mr. Bailie to report to us on what he is doing in this regard.

I think, unfortunately, we are in a bit of an awkward position here. We cannot insist on your conforming to a law that is not really in operation yet. I am a little reluctant, frankly, to go on one rather brief report on what you might be doing and what your plans are when I do not have any law that says you have to do that. I am assuming that when the law does come into effect, you will conform with it.

Mr. Bailie: Mr. Chairman, if you will permit me, by the time the law comes into effect, to a great extent we will have conformed. We are not quarrelling with any aspect of it at all. We have identified it and we just do not have any problem with this. It is a matter of implementing it in a reasonable and practical way. Given time, and we do have the time, by the time the next election comes along, we will be right up to the top requirements.

Mr. Breaugh: I think that is my problem. I would be much more comfortable with this exercise if you had a year or so where the law was actually in operation and we had gone through an election. Then I would pay much more attention to the kinds of comments that we heard yesterday, because it would be fairly clear to me that the guidelines are not just theoretical but are supposedly in operation. If they do not work, then we could take you to task on that, but I cannot take you to task for something that you are not legally bound to do yet.

Mr. Stewart: I should state, just to make it clear, that the position of the office, as Miss Wells indicated very strongly to me by telephone, is that we are already in conformity with the act if it were to come into full effect today instead of the end of this year, that we have been for some time and that we are in fact ahead of what the legal requirements will be.

Mr. Breaugh: Unless other members want to pursue that, I would be happy to go the other route that I mentioned. If changes in the act are made that would alter your responsibility in terms of the local returning officer, then perhaps in the next review of your annual report or something of that nature we could go into this in somewhat more depth.

Mr. Bailie: Okay.

Mr. Campbell: As a member from a riding that is designated bilingual, if you use the theory of Bill 8, the service-driven aspect of the bill, then I can attest that, very clearly, the intent and indeed the practice of the office of the chief election officer is exceedingly strict in its ability to deal with that already.

I agree that there is no law existing right now, but certainly the practice in my riding, which is a designated bilingual riding, is very much service-driven and meets the intent or the theory, if you will, of the law already. There may be some minor adjustments at the end of the day when the new legislation comes into final effect, but I suggest that they will probably be very minor: maybe some appointments, maybe some other things have to be done. But I think that for a number of years in my riding, the practice and the principle of being bilingual has been very strictly adhered to.

Mr. Morin: I was not here yesterday when the presentations were made by the two associations. Were they asking more than what Bill 8 is requesting?

Mr. Breaugh: Just a bit, not that you would have noticed.

Mr. Morin: Is that a fair question?

Mr. Chairman: If I ever heard Mr. Breaugh understate a case, that was it.

Mr. Bailie: The first presenter did present in a fairly clear manner the hopes and expectations of the French-speaking community, I thought, in a constructive way. The second presenter suggested that perhaps because elections come every four years, the office of the chief election officer would use this as an excuse to say, "Well, there is no election on now, so there is nothing I can do about it," and then when the election is announced: "Well, it's too late to do anything now. I have to run the election." Such is not the case. Our position has been made clear by Mr. Stewart.

In the case of the second presenter, he asked that I make sure that enumerators and poll officials in these areas all be French-speaking. One of the committee made it clear to him that: "Mr. Bailie does not have the right to appoint enumerators and poll officials. That is somebody else's responsibility under the act." In that way, he was asking for something that I cannot do right now, though I can encourage, and we do that.

In our instructions to returning officers, we try to make it clear to them, for their own smooth operation, to make sure that they encourage the parties to appoint people who are sensitive to the needs of the area, whatever it is, whether it is French, Italian, handicapped, blind, hearing-impaired and so forth, because we do have polls that present these different needs. We try to make sure that people represent the needs of the communities as carefully as possible.

Mr. Morin: I understand Mr. Breaugh's point of view now. I did not quite understand. I have known Mike for quite a few years, and I did not know what he was getting at.

I understand the dilemma and the best thing to do, in my opinion, would be to follow the act, because you have to be prepared for the implementation of the act in November.

Mr. Bailie: Exactement.

Mr. Morin: If the other groups have reasons to grieve certain measures that have not been taken, then let them come back to us and lodge their complaints. Then it is up to us to give you more power to appoint people. This is the way to approach it. Would you agree with that, Mr. Breagh?

Mr. Breagh: Certainly.

Mr. Bailie: I think that is good advice for us too.

Mr. Chairman: Thank you. Do you want to proceed then?

Mr. Breagh: Can I ask just one question before we get started? This may be kind of a silly question. Does anybody happen to have the amendments that would be proposed should your recommendations be carried?

Mr. Bailie: I have been trying to address that issue.

1430

Mr. Breagh: Can you circulate them so we can see where these things would fit in?

Mr. Bailie: We just happen to have them with us.

Mr. Chairman: While Mr. Stewart is handing these out, would you introduce your staff, Mr. Bailie, for the benefit of Hansard?

Mr. Bailie: On my right, now moving about, is Alan Stewart, special adviser, legal; on my immediate left is Mary Cacciaccarro, administrative assistant; and to my far left, information officer Michel Côté. This is a new position which we established as a result of Bill 8. We had in mind that we would like to have an information officer and were wondering how we would get it approved by the Board of Internal Economy, but when Bill 8 came through we saw that as an ideal opportunity to hire a bilingual information officer, and here before you you see Michel Côté.

Mr. Chairman: The gentleman back here, is he with you?

Mr. Bailie: Oh, I am sorry. I want to introduce our investigator, Geoff Murray.

Mr. Chairman: That sounds very subversive.

Mr. Bailie: Geoff has several titles, actually. I used that one because when I decided that the situation in Etobicoke-Lakeshore was serious enough that I wanted to handle it very carefully, I engaged the services of a young barrister. Geoff had been an election clerk many years ago and had an understanding of it, and I engaged the services of a former returning officer. So as I mentioned to you earlier, the people who would be going out would be very familiar, even more than my head office staff, Ms. Wells or somebody like that, or Mary, who are very familiar and have been there for quite a while. These people have actually worked in an election office and know what you can expect from enumerators or not expect and so forth, so they would be aware. Then, with Alan's training, he headed up this team.

Geoff is actually working on a mapping project we have now, now that the investigation is over. His returning office experience, once again, is coming to the fore. He was an ideal selection, and we were fortunate he was

available, because when I first met him about seven or eight years ago, an election was announced and we found out that the returning officer was in Acapulco. So here was this young man who had been an election clerk, and he had to set up the office all on his own, and it was a pretty hectic time for him. I guess if he looked back on it he would not want to do that again, but it allowed him to come to my attention that here was an election clerk, and a young one at that, who was able to do both jobs for three or four days until the returning officer returned to the scene. That is how he came to my attention. Sorry about forgetting about you there, Geoffrey.

I hope you will find the thing we have prepared here helpful. On the left is the actual wording of the act—for the very first issue we are addressing, there is no present wording, as you will see, so it is blank—then the proposed wording in the centre and our rationale on the right. If we could go through these wordings we are recommending and then, following that, deal with additional sections you would like to look at, we are at your service.

Mr. Chairman: What is Geoff's last name?

Mr. Bailie: Geoff Murray.

Mr. Campbell: We are going to get this guy introduced yet.

Mr. Bailie: Yes. It is embarrassing.

Mr. Chairman: The members have the benefit of the proposed amendments. For the first one, there is none here.

Mr. Bailie: This is a proposed amendment that will be new, and it covers the—

Mr. J. M. Johnson: If we go this route, are we not then in the process of dealing with the bill?

Mr. Campbell: Clause-by-clause.

Mr. J. M. Johnson: I thought maybe you were considering taking the report, going through the sections and getting some idea, and then we would go to clause-by-clause tomorrow. What are we doing differently from clause-by-clause right now?

Mr. Chairman: We were going to discuss some general areas and then somebody asked whether he had some specific recommendations. What we could do is discuss some general recommendations and then go over this thing clause-by-clause. Maybe that would be a better way of doing it.

Mr. Bailie: This is not intended to be your clause-by-clause discussion, but my detailed recommendations, in effect. You have the report which is my recommendation. These are more my detailed recommendations.

Mr. Chairman: Then the only thing we can do is just concentrate on the proposed amendment in general terms, going through this, just concentrating on the general proposal and not worrying about each section. Then we will go through it again tomorrow clause-by-clause and fit this in. The members in the meantime will have a chance to go over it tonight and so forth and give more thought to what the changes might be.

Mr. Bailie: Yes.

Mr. Breaugh: I have a little problem with that. The format is good in that it tells me where you would like to make a wording change and where you would like to make substantive change. But in the time we have this afternoon, there are about half a dozen major issues I would like to get at and test the water in the committee to see which way we would like to go. Then tomorrow, if those things are going to carry the day, we can worry about the precise wording of it.

I appreciate having this; this is very helpful, but I do not want to spend the afternoon debating what the exact word that will be used in that proposed amendment will be. I do not have a whole lot of problem with anything you have here, but there are some other rather larger items that I would kind of like to get to. I think maybe the best way to do that is either to go through the recommendations that are contained in the report itself or just let each of us put on the table the half dozen things we think have to be changed.

Mr. J. M. Johnson: I am quite impressed with the report and the way it is handled. I think we could get a general idea of the recommendations here and then worry about the terminology tomorrow.

Mr. Chairman: Let's go through page 3, then. What you have is the review of election issues on page 3, number 2. At the bottom of page 3 there is a recommendation. There is one at the top too; there are three of them on that page.

Mr. Breaugh: I think actually it would be helpful if we just went through the report and dealt with your recommendations because I think I can work most of what I want to talk about in as we go through it that way. Is that all right?

Mr. Chairman: Okay. Let's go through the recommendations as you have them, then—the recommendation with regard to residence.

Mr. Bailie: "Two additional rules should be added to clause 1(1)(o), specifying that no person shall lose his residence in Ontario by reason of absence therefrom in the service of the crown, or by reason of being the spouse or child of such a person."

We all know of servicemen—and Mr. Johnson was mentioning one just at the noon break there. I talked to one chap. He was an Ontario resident, always had been and he missed voting in three elections in a row in Ontario because he was sent out to Lethbridge for some special course. That meant that when he got back, he was not here a full year before an election ensued. Then lo and behold, just before the next election, he got sent to Valcartier or some place for another special course. Once again, he was not back for a full 12 months before an election and he lost his right to vote.

I thought that seemed wrong, so under the powers given me under subsection 4(7), I ruled and sent a communication to the armed forces station saying that I would consider that service personnel sent out of the province of Ontario for training would be considered to have maintained their residence in Ontario as far as the purposes of the act were concerned, and that this would be extended to include family members such as a spouse or voting-age children who travelled with them. This would include trips to Lahr, West Germany and so forth.

I felt that you would want me to do that because here is surely a

category of people whose opinion we certainly want to have in elections. There is a great number of them who get disfranchised by directions from headquarters to go here, go there and so forth. So that is the thought that that deals with. What I am hoping is that you do agree so that my previous action would be ratified, I guess.

1440

Mr. Chairman: I do not think you will have any argument with that, but two people have questions: Mr. Campbell and Mr. Morin.

Mr. Campbell: While I understand the reason why you are doing it, it is almost as if there would be a Charter of Rights and Freedoms challenge to say that because you are in the armed forces and you are sent out of the country, what is the difference between that and somebody who is sent on a training course with the head office of a company? I think that this is a fundamental problem with why people are away from Ontario or for periods of time are assigned to other countries—Bell Canada workers, for example, in Saudi Arabia come to mind right away—for longer-term employment than a six-week or a 12-week course that you are talking about. But a philosophical question is: If you are going to do it for one group of workers, then you have to do it pretty well generally across the board; and I cannot think of a single reason why you would not allow people to vote in those circumstances, in the public or private sectors.

I would go along with you if there was some way to include others who had some certified reason for being out of the province and that they could vote and make the same arrangements as somebody who was in the armed forces. I just do not see the rationale for a crown employee being treated differently from anyone else.

Mr. Morin: Just to follow his question: How do they do it at the federal level?

Mr. Bailie: Pardon?

Mr. Morin: How do they do it at the federal level?

Mr. Bailie: There is not the same difficulty at the federal level, because if I am a resident of Ontario and I get transferred to Manitoba for six months and I come back here and I am only here for five months before the election, all I have to do to be able to vote in the Ontario section of the federal election is be a Canadian citizen. See? You do not have the residency requirement.

Mr. Morin: But what about his argument? Let's say I work for IBM and IBM sends me to—

Mr. Breaugh: I think there is a way around it.

Mr. Bailie: Yes, and I think we have dealt with it. We have had very few people appeal to me in this regard; but I do not want to suggest there would not be any. But generally speaking, if somebody goes to Schenectady, New York to take that special Bell course, he does not sell his home. But servicemen, because of the fact that they often get transferred back and forth almost continually, tend to establish in the Army camp; whereas an employee for Bell who goes to Schenectady and takes that three-month course, he comes back and whoever he rented his house to, he takes it over and he never really

gave up his residence in Ontario. That is the position we take with them. So we have had very few people who, it has come to our attention, were disfranchised by-----

Mr. Morin: You include the RCMP in that, too?

Mr. Bailie: Yes. I would, yes, because it is service to the crown.

Mr. J. M. Johnson: Mr. Bailie, in a short while we are going to get to proxy voting and expanded proxy voting. Would that not overcome some of the problems you mentioned earlier of people who go on extended vacations who clearly should be entitled to vote? So if we can deal with the proxy voting, can we not pick up some of these people? There is maybe not this mix; it may be larger than that; but if the committee and the government agreed that an expanded proxy voting system should take place, it should help to overcome some of the problems.

Mr. Bailie: I would agree that if the mood of the committee was that one proposal was justified, it would seem to me the other would be. You see, the difference is that we have a family here: a husband, a wife and one voting-age child. They are living in Ontario, and in one case that came to my attention, they were seven days short of one year. Now that it is changed to six months, there are fewer of these unfortunate circumstances. But they were seven days short of a year.

I said: "Well now, just a minute. Are you sure you presented your situation properly?" He said, "What do you mean?" I said: "Why are you talking about you're seven days short of a year? It doesn't say anything in the act about a year; it says 12 months. You came back to Ontario in"-----and I forget---let's say "September, you told me last year." He said, "That's right." I said, "And this is September. September, October---that counts to 12 to me. The act does not say a year; it does not say 365 days. It says 12 months. So you were here in September, you are in October, you are here in November and so forth: 12 months. I think that you should call the returning officer back and point out that you have been 12 months in Ontario and that you feel you're entitled to vote."

We try to make sure that people do not create problems for themselves. Imagine. the fellow figured: "I'm sorry I haven't been here a year yet. I'm seven days short," but he was here for the 12 months preceding the polling day. We try to make sure no one is disfranchised by some administrative thing like, "Let's count the exact days." This was the voter himself doing it.

Mr. Matrundola: What would happen if somebody were out of the country, say, for two or three months on vacation, never mind for training? For example, on September 10, 1987, a lot of people had been on vacation and returned a day or two before the election. One can be out of the country for three months or for six months or eight months on vacation but still a resident of Ontario, not change residency.

I would suggest that perhaps we should have a clause that a person who is a resident of Ontario is out of the country on vacation or on training or on a special mission or whatever the case, is still a resident of Ontario; if it is for three months or for six months, that would be okay. If somebody is out of the country for over a year, I suppose that may not be proper, but up to a year, I would say that probably would be in order.

For example, take somebody who has a diplomatic post and is still a

resident of Ontario, who is on a special mission, a special assignment out of the country or out of the province, for that matter. That person should be entitled to vote. Right?

Mr. Baillie: They are, sir. The point is that you must be able to see the distinction between residence in Ontario and habitation in Ontario. I remember when I first discussed this years ago with Mr. Lewis, he said there was a very important case in Rhode Island, I think. A man had gone to England to take some course at the university and he started to like it there and he was just going to stay for another three or four months. He had some other project to be worked on. He went on and on in England for 16 years. Just picture it, 16 years.

However, when he died and they went to tax his estate, right away the people in England said, "Oh, he's been a resident here. He hasn't been a resident there. We should get the succession duties." Rhode Island very successfully argued and won the case. They said: "Look, we have all these letters this man sent to his family over the 16-year period. Nearly every single one of them says, 'I know I've been staying on a long time, but it's just such a lovely place and I want to do this and I want to do that, but next year I'll be home.'" He always described Rhode Island as his home: "Next year I'll be home, or maybe six or seven months from now." As far as they were concerned he was a resident of Rhode Island and he was sojourning in England.

That was a long time, and we are not usually faced with that big a decision. As far as we are concerned, if a person goes away on a vacation or training course but maintains a residence here that they can return to at will—In other words, they do not sell their home. They maintain a residence. They can advise the people renting it to leave, saying, "We're coming back in two months or three months." We consider them to have maintained a residence.

I am going to get Alan to deal with the legal definition of the term "residence," because it is one we have to administer very carefully. As far as someone who is a soldier is concerned, because he lives in army camps, and has been maintained in this particular camp and all of a sudden the government is now maintaining him in this one, we did not feel we were able to so easily say, "He's basically an Ontario resident and he intends to return." We used this other approach to make sure they were not disfranchised.

1450

Mr. Breaugh: I was just going to suggest that a slightly different variation of this may alleviate a number of problems. I operate on the assumption that when we wrote the act, most members did not want to make it a condition that you must own property to vote. When we said "residing in Ontario," we meant you were an Ontario resident living somewhere in this province. We did not really want to get into whether you slept on a park bench or in a mansion. If you were here, you had the right to vote. I do not think we ever intended that somebody who is taken away on business or sent away on army service or any other kind of service on a temporary basis lost his right to vote.

I would like to see something in this area that essentially says the chief election officer can designate a resident. If we are in agreement that whatever the circumstances are, away because of the army or does not fill the residence requirement because the person does not own a home or does not have an apartment or mailing address or something like that—it seems to me we are not arguing about whether they should have the legal right to vote. We are in agreement on that.

The only place where there is much room for argument is, what polling division and in what riding? The best way to do that is to have a designation that allows probably the local returning officer, or failing that or if an appeal is necessary the chief election officer, to say, "We accept that you are a resident and we will designate the polling station and the riding." That is really all you need to do, go in the direction that says, "The residence requirement means you're part of Ontario."

If it gets down to what part and there is an argument about where you vote or what the polling division or the electoral district is, then the local returning officer can designate that. If we gave that authority under the act, that might resolve a number of these kinds of problems, the problems of the homeless and things like that. You can work out that they do not own a mansion but they do reside at the East Side Hostel and we accept that and somebody there knows them. You can work out those kinds of arrangements that get us around this residency problem. Is that possible?

Mr. Baillie: We would have a little difficulty with that. What if someone stayed at a hostel quite often in both Manitoba and here? Would you accept that he could be in fact a resident of both and vote in both provinces?

Mr. Breaugh: I do not think we could ever write a law that would resolve that. I think what we could do is say that the local returning officer can hear the circumstances of that case. If he or she decides that the person is in Thunder Bay for 10 months of the year and that when he is in Thunder Bay he stays at this hostel or at his brother's house or whatever and is a valid resident of Ontario, then the only real question is, what is the polling area? What is the electoral district? The local returning officer could do that.

Mr. Stewart: I think it is important to understand that if the members of the committee wish to do this, it is necessary to change the rule of residence that exists now. This was a point I wished to bring up somewhere along the line in dealing with the homeless. Mr. Breaugh stated earlier that it was not a problem of law, that it was a practical problem. The fact is that at least from the point of view of the chief election officer, it is a problem of law, which means only that if the homeless are to vote, the rules of residence should be changed in some way.

This is clause 1(1)(o). In particular, the act says, "residence" means a person's "true, fixed, permanent home or lodging place...." That means that if you have a home and are away on vacation, as in Mr. Matrondola's example, that is fine. You still have a home to which you have an intention of returning. But there are questions whether a homeless person can fit that definition, and questions likewise about whether a person who is abroad for a long period of time, who no longer has a home in Canada but who has an intent to return can fit the definition.

I just wish to point out that in order to effect the kinds of suggestions members are making here, some sort of change to the wording of this clause will be necessary.

Mr. Breaugh: Except that I would point out to you that I know a lot of homeless people who can show you exactly where they live. You could not put a house number on it. You would not accept that it is a residence. But for their purposes, for their intent and within the letter of the law, they know exactly where they live. They go back to the same cardboard box every night, to the same grate at city hall, to the same hole in the wall at Pearson International Airport. They would probably fulfil the letter of the law. The

problem is that we would not put a house number on it. We would not say that this is apartment 103 in the wiring tunnel at Pearson International.

I would prefer, if it is the wish of the committee, that we try to draft something that allows someone to make the designation that he has fulfilled the residency requirement under the act and that he will be part of this electoral district and this polling division. If we could do that, that would be my preference. I tend to think that if you do this for servicemen, for example, I do not know why that would stand up in court if someone chose to challenge that and said: "So I do not belong to the armed services. So what is the difference?" If one wears the uniform, do we change the law for that when the other one does not? I do not think you can.

Mr. Matrundola: I was wondering about a person of no fixed address. At one time or another, this person had an address, so perhaps for the purpose of voting, for a resident of Ontario, perhaps we could use the last known official address or residence for a person who has no address on the day of the election. Maybe last year they had an address, or two years ago they had an address. So for the purpose of the act, the last known official address of residence would be the one. Whether it is going to be in my riding or Mr. Beer's riding or Mr. Epp's riding makes no difference. If he wants to vote, he would have to go to vote at that place, or in the alternative, perhaps the returning officer would have to establish an address, would have to have the discretion to assign a poll and a riding for this person. That might even solve the problem.

Mr. Campbell: I do not want to cut off Mr. Johnson, but I suggest that perhaps if Mr. Sterling could come back with how he would see the residency requirement being redrafted, reflecting the drift of where this committee is going, that would save us a bit of time and we could deal with it tomorrow. I do not want to cut off Mr. Johnson. I just wonder if that is acceptable to everybody, that we could press on with main issues and have that come back tomorrow as part of our—

Mr. J. M. Johnson: I was just going to make a very brief suggestion. We could use the same recommendation and maybe decide something, that we have no person lose his residence by reason of that section and maybe add "by reason of not having a permanent address," or something of that nature. Could you just expand on that for people who have a problem and could maybe be dealt with in a simplified way? As Mike Breaugh suggested, the chief election officers during an election could have a little more power to determine those issues.

Mr. Bailie: I think that is a profitable suggestion. Perhaps Mr. Yeager and Mr. Stewart might get together and the two of them come up with a wording that you might be happy with and we could move on. This is really one of the biggest interpretations we have to make of the act. I do not think there is any section I am called upon to be more careful about during the course of an election than this particular section: What does "residence" mean?

We had the six presidents of the student councils of the universities all come in to a meeting that I convened with Mr. Lewis, the former chief election officer. We were trying to resolve this. We said, "Okay, suppose we say to a student that we make the place he has on his driver's licence his residence." Well, that was complicated, so we said: "Suppose it were decided the place where you give your address at the college would always be your residence until you have some other residence?"

This one young fellow said: "No. That would not work for me. My parents

are at Lahr in Germany at the Canadian Forces base there and I give that address because when they send my receipt for the tuition fees or my diploma or something, I want a family member to take care of those papers while I am up in the Yukon on some surveying trip during the summer." You would disfranchise him by requiring him to register an address that is not even on this continent.

We just come down to it that it is so difficult, one of the most difficult. The practice of my office has been that we say, "Look, explain your situation to us and if there is any way in which we can interpret it in your favour so that you get your vote, be assured we will."

I would certainly like to have this settled. Perhaps if we can deal with that tomorrow morning after these two put their heads together on it, it might be a good suggestion.

1500

Mr. Morin: How many cases a year do you investigate, the investigation of the resident? How many cases a year would you have where people are challenged?

Mr. Bailie: We had only one case of personation in the last election that we prosecuted successfully. There are sometimes allegations, but very little—

Mr. Morin: How many allegations or how many complaints would you have?

Mr. Bailie: We would have a dozen complaints but—

Mr. Morin: A dozen for the whole of Ontario?

Mr. Bailie: Yes, a dozen on personation. It is only in every second election where there would be any real evidence. Someone was prosecuted successfully two elections ago.

Mr. Chairman: Mr. Stewart and Mr. Yeager will get together and work something out and come back to us tomorrow.

Mr. Bailie: Yes; okay.

Mr. Chairman: Next then, the second recommendation on the top of page 3.

Mr. Bailie: This recommendation says, "Section 6(1) should be amended to apply to returning officers and election clerks, as well as poll officials."

I had recommended in 1983-84 that returning officers and election clerks have the right under the act to ask their employer for time off without suffering the loss of a job because it is an important position, and as it is being described here in the opinion of this committee, the training of these people is very important. We have had difficulty getting some of them in for training because of the fact they might lose their jobs and so forth.

This would assist us in maybe keeping the better returning officers by their having the right to say to their employer, "I am an election official

and from time to time I will have to have three days off for a training session at the office of the chief election officer, and when the election is called I will have to turn to and get working on the election right away." I am just asking that the committee consider approving that recommendation.

Mr. Breaugh: No problem.

Mr. Campbell: No problem.

Mr. Chairman: No problem.

Mr. Baillie: Now, removal of returning officers: We have already discussed that.

Mr. Breaugh: I wonder if I could just test the waters a little bit here. Let's be bold. I really do not want to send anybody a list of who should do the enumeration, who should be a deputy returning officer or anything else. When an election is called, there are things I want to do other than that. I think I would certainly be prepared to entertain this removal of returning officers, with an appointment process that is different from what we now do and all of that. Is it too much to ask that we consider that at this time?

There is no urgency to it, I hope. We are not going to have an election this week. We can deal with this recommendation by itself. I have no problem with that. But the larger question is how we provide officials for the local election process. That is a pretty antiquated process, in my books. In the Toronto Star this morning, there was a provision for hiring provincial court judges by means of an advertisement in public newspapers.

Whether you want to do all of them or part of them or have the local returning officer as one agent, I think it is time we had a little thought about that. People are reluctant to give up the traditional right of appointing enumerators, DROs and things like that. I do not really even think that is worth our consideration for a long time if there is an argument about it. But certainly the local returning officer, I think, is something that should be done in a slightly different way than it has been done up until now. It is not that the present system is really awful.

Mr. Chairman: I think we could generally discuss it. I am not sure we would want to proceed beyond that today, but if any people have thoughts about it, they could express them at this time.

Mr. Campbell: I just want to be clear what you are speaking of. You are speaking of the head riding officer?

Mr. Breaugh: Yes.

Mr. Campbell: And you are saying the appointment should be pre-1984?

Mr. Breaugh: What do you mean by that?

Mr. Campbell: If you are saying removal or appointment of the chief riding person by the chief electoral officer of Ontario, it is my understanding that prior to 1984 that was the way it was done.

Mr. Chairman: He could remove them before 1984.

Mr. Campbell: That is what I wanted to clarify. I understand removal and appointment. I just wanted to clarify appointment before I --

Mr. Bailie: Let me do that. Prior to 1984, the chief election officer could remove a returning officer who failed to competently conduct his duties.

Mr. Chairman: Including the day of the election.

Mr. Bailie: Yes, at any time, in other words. But at that time, the situation with the appointment of returning officers was that the office receive the name of a person who was now appointed returning officer, period. We would then train that person into the system and so forth. At that time, it did not seem to be a very serious problem. The job was not nearly as complex as it is now. The public was not as sophisticated in demanding its right to have information and services, as we all know is the case.

In this day and age, the job really does require a much more sophisticated person, a person with managerial skills, public relations skills, to a much greater extent than before. In fact, I was appointed a federal returning officer, say, 25 years ago and a provincial one about 20 years ago. I might never have got the appointment, if I were drawing up the job description now. I might have failed the test.

But it really does demand a manager with much greater skills and we would like to see that reflected in the process. I must say, to the credit of this administration, that the process used was certainly up to my recommendations. I was rather pleased with the care that was taken and that every single person who was appointed had to be interviewed by me first. They were only appointed when I recommended to Cabinet Office that they be appointed. There were some appointed near the end I had some small doubts about, but I must say the process was much more to my liking and to what the needs are than it ever was before. I am really quite happy with the process, but if it is the wish of the committee to change the process of selecting people even more, I certainly would not be opposed to that, either.

Mr. McClelland: Out of 130 people involved in the position, what is the approximate turnover?

Mr. Bailie: Usually we have about 19, 20. We had a resignation this morning. I hardly had a chance to glance over it. And do not ask me who it was. Oh, I do remember; I was going to say I would not even remember. I just had a glance at my mail before I came down.

I just sent out a letter pointing out to the returning officers that we are getting ready to do our planning for the training sessions and we would like them to give careful thought to whether they are planning on continuing. This was in preparation for the next election, and I asked if they would please advise me in writing? We got a lot of, "Yes, I intend to carry on," and one resignation this morning. We usually receive five, six or seven as a result of that letter, then we usually have five, six or seven we encourage to resign, then there are the others that just occur; another five, six or seven. It just works out that way; maybe 21, I would expect. There may be a few less from appearances to date, but we only heard from about one third of the returning officers.

Mrs. Cacciaccarro: Around 50.

Mr. Bailie: We have heard from 50, so a little more than a third. Is that the first resignation?

Mrs. Cacciaccarro: Yes, it is.

Mr. Bailie: Mary has not even seen it yet. I sent them over to her, but this one I have not even passed on to her yet. We have had one out of 50. I would say it is below the past average.

Mr. Chairman: So about 15 per cent.

Mr. Bailie: The next recommendation would be on the qualification of the election clerk. I took the position that it was not the best idea that the election clerk be a close relative. If the returning officer's position is becoming more complex, then it follows that the election clerk's role is. I made it clear that I did not want the returning officer to appoint a relative.

1510

Now we did have some teams of husbands and wives which had been operating fairly successfully for years. I asked the cabinet to put this wording in so that I did not have to disturb that, but I was making it very clear that I did not want new appointments along that line. I have had cause to regret that, and Etobicoke-Lakeshore is another case in point. As far as I am concerned, I would like to remove the wording that says, "without the prior approval of the chief election officer." The election clerk must be a separate position and we want to really enhance the training for that position so that it is a stand-on-its-own position that we expect someone would be able to take over, rather than just done by one of the family who helps a little bit and gets some of the money. We want it to stand alone as a separate, distinct and important position.

Moving on to the next recommendation: In so far as the efficient administration of the electoral process affects the matter, section 9 of the act, establishing Thursday as polling day, should be retained. The subject came up just briefly in our earliest discussion. "Warren, is Thursday the best day?" For all the reasons that I have advanced there, I am still of the opinion that Thursday is the best day. I would be glad to discuss with you and share with you my reasons.

Mr. Breaugh: I have liked the results of Thursday so far. So leave it as it is.

Mr. Bailie: The next recommendation that I have made is on proxy voting. It is the same recommendation I made in 1984: that anyone who is unable to attend the regular polls or the advance polls have the right to vote by proxy. I cannot see the justification for this category and that category. Certainly my recommendation is that prisoners vote by proxy. I would find difficult to defend that somebody who is in prison, and I am recommending they vote by proxy, has that right but someone who is on vacation does not have the right to vote by proxy. There are a lot of complaints. I know the Premier (Mr. Peterson) gets a lot of complaints. I see these complaints coming through. It is my recommendation, as it was Mr. Lewis's and mine back in 1984, that proxy be opened to qualified voters.

Mr. Chairman: What is the current position of prisoners? They can vote, but they do not?

Mr. Bailie: Here is the current position. In the changes in 1984, we put in that prisoners on remand could vote by proxy. In other words, we devised a system to effect them getting the vote. Prisoners on remand are, in some people's views, not actually prisoners, but the point is that if you cannot get out, let us face it, you are a prisoner. We used that method—

Mr. Campbell: A whole new method of a day pass.

Mr. Bailie: After careful consultation with the people in the Ministry of Correctional Services, they said, "Oh, yes. We would prefer that. We will make sure the phones are available," and so forth.

That works reasonably well for prisoners on remand. The Correctional Services people found it to be very effective. I want to tell you that the lawyer who got the right of prisoners to vote actually appealed to the Honourable Mr. Justice Bowlby to add to his order that if they were to get it, they were to get it by proxy. Mr. Justice Bowlby said, "I appreciate the fact that the crown and the chief election officer and the lawyer for the prisoners are all in agreement on this, but I think that is the role of the Legislature, to decide how they get the vote." That is the way it was left. We are still of the same opinion: that prisoners are unable to get to the regular poll. Vacationers are unable to get to the regular poll. Somebody studying in Switzerland or at the Bell Institute in Schenectady cannot get to the poll. So they have a right to vote by proxy.

Mr. Chairman: What is their address?

Mr. Campbell: It solves residency; you do not have to worry about it.

Mr. Chairman: It would solve residency, but they just put them down as, "What is their address?"

Mr. Stewart: It has been the position of the office that prison, no matter how long you are in, by nature is not a permanent residence. It is a temporary experience, so the residents—

Mr. Campbell: There is a euphemism if I ever heard one.

Mr. Chairman: That is a hopeful note. You recommend that people have different experiences, right?

Mr. Stewart: Right. So your residence is where your home is, or it is somewhere other than the institution.

Mr. Bailie: Or the last known address, as Mr. Matrondola says.

Mr. Chairman: You know something? You should be in politics.

Mr. Campbell: Just to clarify what is being proposed here, the proxy would remove A, B, C, D and E and replace it with a general blanket?

Mr. Bailie: It would just remove that.

Mr. Campbell: So it really simplifies the proxy process, including people on vacation.

Mr. Bailie: Right.

Mr. Campbell: The other point, with a comment this morning about residency rules, is that if we stuck with the regular residency rules, I could see a prisoner who is incarcerated long enough, but still wants to vote in his home and not in the prison, run into that situation that the house or the last known residence, by that time, might be a parking lot. You are in the same situation of residence with the same problems. I am just concerned that he would not then have an address to refer back to.

Mr. Stewart: There is a proposed rule in the amendments which has been worked out after many hours of consultation between officials from the Ministry of the Attorney General and the Ministry of Correctional Services, including the lawyer who argued the case. It says, essentially, that if you have a residence that is a home under the ordinary rules, that continues to be your residence; if not, your residence shall be deemed to be in the electoral district in which the inmate was resident immediately prior to his incarceration. That is the rule that is offered for your consideration.

Mr. Chairman: The next is enumerators.

Mr. Baillie: Consideration should be given to amending section 18 to require that the candidates are authorized to recommend enumerators, to notify the returning officer by the seventh day before enumeration is to begin of the maximum number of enumerators they intend to recommend, and of any polling divisions for which they will not be making recommendations. Returning officers would then have four additional days in which to recruit and train properly potential additional enumerators to fill gaps in the candidates' lists. This section might also be amended to require candidates to submit their list five days before the enumeration period is to begin, instead of three days before, as at present.

We really need more time. You do not need to take my word for it. Just listen to all the presenters here. Nearly every one of them said these poll officials need to have better training. We have been saying it for years.

All we are saying is there are areas where the candidates are doing an excellent job of recommending people. If they will take the time to do it or if they have the time to do it, they are better equipped than the returning officer because they are trying to get an office open, get phones installed and so forth. So we would still be able to, in those areas, go to them and say, "Are you going to or not?"

In Mr. Rae's riding, the Conservatives have not submitted the list in 10 elections. They have just left it entirely to the returning officer. The returning officer knew in advance. They got outsmarted the last time because the returning officer who was appointed was on Mr. Rae's recommendation. I do not know whether that bothered them or not. From what I understand, for nearly 10 elections in a row, they have just said to the returning officer: "You go ahead and appoint who you like. We've got to get ourselves organized." They are still working on that.

Mr. Chairman: It often really is a hassle. I do not want to get away from the system completely, but it really is a hassle from time to time.

Mr. Baillie: Yes, but for those candidates who want to do it, and do it reasonably well, we would still like to have that help, really, quite frankly.

1520

Mr. Campbell: I am not sure because I do not read law well—I am not a lawyer—but I suspect that the act, in theory, has changed where it is still the candidate's responsibility to submit a list of names at some point, but that they are always short, no matter what party and no matter what riding. They are always 20, 30 or 40 short. It is the same with poll clerks.

I am just wondering if this would clean it up enough so that there would

be an option for the returning officer to appoint such names as they get by whatever means, but including the list. I know in some ridings it is a very important function and is performed in a very formal way. I would not want to take that away, but I know in a lot of other ridings it is just awful trying to get any list at all.

I just want to be assured that that would allow that option but allow also the practice as it is in a lot of Ontario, where it is almost a right that you appoint a list of people. I just want to make sure that that is what is being proposed.

Mr. Bailie: The preliminary pages, which I did not read—we started right at the review—would point out to you that we have reviewed these matters with the returning officers and this is their considered opinion, vetted by my staff.

I might describe to you how poll officials are picked in British Columbia. They do not have to use enumerators because they have this list. So shortly after the returning officer opens the office, they start getting ready to deal with the matter of appointing poll officials and training them.

The returning officer advises all the candidates: "We are going to start on, say, Thursday, Friday and Saturday of next week to hire poll officials. If there are any of your people or people you know who would like to have jobs, make sure you tell them: 'Here is our address. We are going to start at 10 o'clock in the morning. Join the line.'" That is all the right, shall we say, or responsibility the candidates have.

If anyone phones them up and they have kept his name and says, "I would like to get on to one of those positions," they call him back and say: "Hey, we have the word that they are hiring these three days. Make sure you are there." But there is no special line for the candidates' recommendations or special preference.

It would be for you to decide, but I am not recommending that. You can see what we are recommending.

Mr. Chairman: One question: Does any five days including Saturday and Sunday?

Mr. Bailie: The wording would say the five days before.

Mr. Stewart: Yes, it would include Saturday and Sunday.

Mr. Bailie: Oh, yes, I am sorry. Okay.

Mr. Breaugh: I am going to have to depart in a couple of minutes. Maybe I could just get a couple of concerns I have on the record and then we will have a little discussion about it. They are all listed in there. I really do not have any trouble with any of these recommendations at all, except perhaps a little nitpicking here and there.

I really like the idea of exploring political affiliations and of changing the nature of the ballot. One of the things that has been brought to my attention is that in other jurisdictions they sure go about this in a different way. The ballot is just dreadfully clear as to what your candidate is: It gives you colour identification, it gives you symbols, it gives you all kinds of variations on that. A lot of people who are in this country now come

from a culture and a climate where a ballot looks a lot different from ours and it is much clearer and much simpler.

So I would be advocating the use of the names of the political parties, certainly. I even think it would not be untoward if we started to at least think about having the parties develop what in practice they have now, which is logos or symbols, and having those imprinted on the ballots as well. There are a lot of people who do not read well, who do not read the English language well, who have difficulty with it. I think the purpose of a ballot is to clearly identify who the candidates are.

Anything you can do that would enhance that, that would solve a language problem, a problem with reading the English or the French language or just basic identification, anything that could be done should be done. I would be prepared to take the recommendation that is in here and expand it somewhat, frankly, so that anything that more clearly identifies the candidates who are seeking public office should be acceptable, even to the point of some things that might be considered very nontraditional.

Another item that I think we would like to kick around a little bit—we are almost there now, and I still get back to this thing—is that any way of providing additional occasions when people can vote, more voting days, more voting places, really ought to be explored. We do a lot more now than they do in other jurisdictions in Canada.

I really think that during the election period, if someone is going to be denied his opportunity to vote, to exercise his legitimate franchise simply because he cannot get to a polling station, that is wrong. I would be prepared to say that in addition to all the additional days we have now—and we are almost there now—at any time during the electoral period, we should provide as many places for people to vote during reasonable hours as we can. We are almost there, and I would like to go just that little extra step farther.

We kind of skipped over the part about level access and all that because there is not really a recommendation in here, but I think this committee is going to have to take a look at some of that. I am not sure the answer is always in redesigning every public building in Ontario. I sometimes think we should do that, but for other reasons.

Tomorrow we might want to look at the access provisions that are in the act currently. While there is not specifically a recommendation here, and perhaps this is not really the best time to be doing this, I think we ought to at least have the argument this time and perhaps, at a subsequent time, deal with that.

Those are the matters I have on my little checklist of things. I really do not have any problems with any of the other recommendations that are here.

Mr. Chairman: If Mr. Breough is leaving, I am inclined to think that what we should do is close down for this afternoon, simply because we will have only the one party represented then. I would feel uncomfortable about continuing with only one party represented here, whether it is an informal session or not. I suggest we adjourn until tomorrow.

Mr. Baillie: If I might be permitted one final remark, four members of my staff and I went over to the Macdonald Block, the St. Lawrence Lounge, to take a look at the area there, because we are going to establish a barrier-free access demonstration of a poll. We will have a ramp, a doorway with proper handles and tables with the proper height for wheelchairs.

Geoff Murray is going to look into the proper lighting that would be recommended by the Barrier-Free Design Centre. We are going to have the assistance of Barrier-Free Design to advise us on all aspects of it, so we are not just talking about wheelchairs.

We were committed to this program about a month ago. The staff of the young lady who spoke to you the other day is going to be advising us on it. We are fully committed to the concept of barrier-free, and the quicker we can move on it the better, and the more power I have to insist on it.

There is one thing you have to be careful of, and someone on the committee mentioned it. Mr. Lewis got the idea during one election that one of the best places would be a firehall; level access, you know. "Just talk to the local fire chief." So, in the area where I was formerly a returning officer, the returning officer got a firehall in Richmond Hill.

The only trouble is that at about 11 o'clock, the firemen open the great big doors, drive the trucks out and start washing them. It was a day something like today, when you expected it to be a lot warmer than it was. The wind was blowing in, plus the spray. These two or three women in there were freezing.

I got a phone call and they said, "Can we move the advance poll in the middle of the day?" I had previously had it in a high school across the road and I said, "Unfortunately, you are going to have steps, but it sounds like you are not going to be able to stay there," so they had to move the poll in the middle of the day, if you can imagine.

Mr. Lewis had another idea which, on the surface, sounded good. He said there are service stations that have a drive-through approach, like those car wash places. But we were a little worried that somebody might fall into the grease pit. These things can happen in a place that is not really built for it, but the idea was that someone in a car could drive in, the door would close and a handicapped person could vote right from his car.

We are constantly trying to think of things that will facilitate the voting of the handicapped, with no potential for great accidents or claims against the province.

Mr. Chairman: Thank you very much.

We will be back here tomorrow morning at 10 o'clock to reconvene and see if we can finish with this tomorrow.

The committee adjourned at 3:31 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY
REVIEW OF ELECTION LAWS AND PROCESS
WEDNESDAY, APRIL 12, 1989
Morning Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)

VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)

Breaugh, Michael J. (Oshawa NDP)

Hampton, Howard (Rainy River NDP)

Johnson, Jack (Wellington PC)

Matrundola, Gino (Willowdale L)

McClelland, Carman (Brampton North L)

Morin, Gilles E. (Carleton East L)

Sterling, Norman W. (Carleton PC)

Stoner, Norah (Durham West L)

Sullivan, Barbara (Halton Centre L)

Substitutions:

Cleary, John C. (Cornwall L) for Mrs. Sullivan

Sola, John (Mississauga East L) for Mrs. Stoner

Clerk: Forsyth, Smirle

Staff:

Yeager, Lewis, Research Officer, Legislative Research Service

Witnesses:

From the Office of the Chief Election Officer:

Stewart, Alan, Special Adviser (Legal)

Bailie, Warren R., Chief Election Officer

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, April 12, 1989

The committee met at 10:16 a.m. in room 228.

REVIEW OF ELECTION LAWS AND PROCESS
(continued)

The Vice-Chairman: The chairman will be late so he asked me to get us started. There were a couple of things we were going to report on today. I understand both counsel have got together a proposal on this residency requirement.

Mr. Breagh, I wanted as full a committee as possible to discuss the residency requirement. I was going to suggest we could do kind of a general introduction from where we left off yesterday and give other members a chance to be here, so we can have as full a discussion as possible.

Mr. Breagh: That is fine.

The Vice-Chairman: At the point yesterday when we broke off or—what is the term?—adjourned, recessed, whatever, I think we were at the point of getting to resolving a number of the proposed amendments both from the report and from the sheets that were handed out to you. I wonder if everybody has his copy of the proposed amendments so we can keep track of them.

At some point we are going to have to do this, so I thought at this point in time we would start going through these, except for the first one on the residency requirements; we could come back to that at some future point in the meeting if that is agreeable to everyone.

Okay, seeing so, we will—

Mr. Breagh: Just before we start, do we have an agreed wording for the residency amendment?

Mr. Stewart: I have them.

The Vice-Chairman: You do have them; okay. I did not realize you had them. Then we can have a chance to look them over while we are discussing the rest of it, if that is okay with everybody. We will get into residency a little later.

I draw to your attention as well that there may be members who have suggested other parts, so perhaps we could keep flipping through the workbook as well; that is this copy. If there are other things you have made notes on that you wish to question and that do not appear in the amendments, I think this is the time to do it so we can get as full an exploration as possible.

I will just quickly go through these sections. Save subsection 1(1). We are going to come back to it. That would take us to section 2, which is about time if anybody has any questions about time. I just propose to highlight by title, if that is okay.

Mr. Breagh: I do not have any problem with the time as laid out in section 2, but I am just wondering if there are any comments Mr. Bailie would like to make about extending hours for voting purposes.

Mr. Bailie: Extending hours?

Mr. Breagh: Let me premise this question: I do not want to mess up election day, but I do contend that, for example, in the advance polls we could be pretty flexible in terms of the hours for the advance polls, and why are we not?

Mr. Bailie: We have looked at that and have discussed it with returning officers. I have had very few complaints from members or the public, so it is just a carryover of what we have always had in the past, more or less.

Mr. Breagh: I do not want to prolong this argument, but what I would frankly like to see us try to do this time, and it is a bit of a compromise, is to provide as much flexibility as we can in the act so that a local returning officer who senses that it might be reasonable to have, for example, an advance poll open in the evening from 5:30 to 10, two or three times during the election period, can do so, and so that someone who senses that in a community where there is a lot of shift work it might be quite practical to have an advance poll that is, in effect, open 24 hours during one period can do so.

I am not suggesting we do this on a large scale, but I am suggesting that if the act were flexible enough to allow a local returning officer to try some different ideas in terms of time, location, advanced polls and a number of other things, then maybe in the next review we could have some sense of how much demand is there.

In other words, would more people vote if they could vote when they came off the shift at two o'clock in the morning? Would they vote if an advance poll were open during the evening for more hours than it normally would be? Would more people vote if there were an opportunity to vote at any time during a two-week or three-week period at several locations in the riding? How practical are these things? There is a fair amount of flexibility in the act now, so I do not think we are asking for anything outrageous.

Mr. Bailie: Now I understand, and it is probably a good point. The only time we have ever adjusted it that I can remember was about two or three elections ago in the community that is just at the east end of Algonquin Provincial Park. We got word that the local hockey team, the midget team, had won the Ontario championship and was going to be playing in Montreal. There were buses leaving at nine o'clock to take practically half the town to Montreal to see them play and somebody appealed to Mr. Lewis, "Isn't there something we can do?"

He said: "Okay. If you want to do this, have the bus staging area at the school. Then I will authorize the returning officer to open the poll." Actually, I think it was an adjustment of just about half an hour, but we opened them a little early for those people who were going to be away for about one week at this tournament. That is about the only time we have adjusted them and we did not get any complaints.

The Vice-Chairman: I do not want to cut off anybody's debate, but I am wondering if we could deal with that when we come to poll opening and

closing. This is just basically the time frame. We could deal with that at that time, if that is agreeable. Mr. Johnson, you had a question?

Mr. J. M. Johnson: The same.

The Vice-Chairman: Could you hold it then until we deal with the setting up of the polls?

On the oaths, when we get into penalties I think there are a couple of questions about the size of the fine and I think there is some legal argument you might want to be ready for. Anything on those?

Section 4, "Administration": Anything? Section 5 on appointments, who cannot serve? Section 6, "Employees Serving or Voting at an Election"?

Mr. Bailie: This is the area where we want to insert the returning officer and the election clerk.

The Vice-Chairman: Do you have that? I knew it was the section and I had it marked, but perhaps you could just highlight that, what we are looking at.

Mr. Breaguh: So we have an amendment for section 6, do we?

Mr. Bailie: In other words, it would read, "Every employer shall, on request made not later than seven days before the time required, grant leave to an employee who has been appointed by a returning officer to serve as a poll official." We would need a subsection, just a couple of lines, that would include the returning officer and election clerk. We actually had wording prepared in 1984. We could probably just search that out. It would be very straightforward that if an employer is given seven days notice, a returning officer must be allowed to take the time off.

The Vice-Chairman: You are going to come back with a formal amendment then.

Mr. Bailie: Yes, we will come back with the wording.

Mr. Morin: It is not in here.

Mr. Bailie: No, it is not in there.

The Vice-Chairman: We will deal with that at a future point. I would like to clean up as much as we can today so that we can keep pressing on. Perhaps your staff can keep in mind that those kinds of things can be done and get back to us this afternoon, if possible. Anything else on section 6 then?

On section 7, subsection 7(11) is the first one I have. Is there anything before 7(11)? I draw your attention to page 7 in our workbooks about section 7(11) on removal of returning officers.

Mr. Bailie, if you would like to introduce your proposed amendment, then I will entertain any debate on it.

Mr. Stewart: The amendment would simply remove the words "at any time during an election period." What is left then is, "The chief election officer may remove from office any returning officer who, in the opinion of the chief election officer, fails to discharge competently his duties, or any

of them, under this act," without any restrictions as to when such a removal can take place.

Mr. Breaugh: Just a little bit about format: I am kind of musing it over in my own mind. In the motion, do we have this bill before us or are we reporting with comments?

Clerk of the Committee: What is before us is this report of the chief election officer and the whole election process.

Mr. Breaugh: We have the report and a resolution of the House, but we do not actually have the bill before us. We cannot technically amend the bill.

Clerk of the Committee: I think the committee could propose draft amendments to the Election Act in its report to the House.

Mr. Breaugh: But we do not have the bill in front of us.

The Vice-Chairman: No.

Mr. Breaugh: The bill was not referred.

Clerk of the Committee: The report and the election process is.

Mr. Breaugh: Okay, if that is the case, then what I suggest a way to proceed is that Mr. Bailie collect a series of proposed amendments to the act. We could debate them in general terms and at the end, with one motion, we could adopt a report that in effect proposes these amendments to the act.

The Vice-Chairman: Yes.

Mr. Breaugh: Is that a way to proceed?

Mr. Sterling: I guess the alternative would be to do what we did with regard to the Legislative Assembly Act on serving a member, and try to push the thing along in terms of the agenda of the Legislature by having the chairman of the committee introduce it as a bill, which I think would then perhaps push it up on the agenda and allow the House leaders from the various parties to push the legislation on. That may be an alternative you would want.

Mr. Breaugh: As a matter of fact, I think I kind of prefer that.

The Vice-Chairman: We have those comments then. I was not prepared to deal with the technical difference, which I believe was a very important point, but perhaps dealing today and this afternoon when the chairman is here, or tomorrow morning before we start, we can solve that procedural situation, but with the understanding that it is a predraft draft. Is that fair?

1030

Mr. Bailie: I would just like to draw to the members' attention the power that the chief election officer would have if this amendment were passed by the House. You will notice the wording "if in the opinion of the chief election officer." It is fairly definite and I just want you to be aware of it.

What it means is that if you did not have "in the opinion of the chief election officer," it would be a matter of our having to go to court and

prove, in no uncertain terms, in the judge's opinion, that this person was incompetent. In other words, in passing that you would be giving a chief election officer fairly strong powers. Is that not right, Alan?

Mr. Stewart: Yes.

Mr. Bailie: The point being that if all of a sudden someone needs to be removed, if that seemed obvious, if it has to result in a court case and appeals, you might as well just leave it the way it is. I just want you to be aware that the inclusion of the words "in the opinion of the chief election officer" means that I will be the judge, and if in my opinion they are not competent to handle it, it does not matter what a judge might think. That is the way I understand it. I want you to be aware of that.

Mr. Breagh: The only challenge I can think of to a decision like that would be that it is conceivable that if you removed somebody during the course of an election or in between elections and some member of the assembly thought it was not a good call, while it could not go to court, the matter could be referred to this committee or a committee of the assembly. That would be the only appeal process I can think of.

Mr. Bailie: That is right. I should have said that. It would always be subject to review, of course, by my boss, which is the 130 members of the House.

Mr. Morin: That is what I wanted straightened out. Your powers are not final. In other words, there would be an appeal.

Mr. Bailie: Yes.

Mr. Morin: To this committee.

Mr. Bailie: Right, or to the assembly.

Mr. Matrondola: If it is in the opinion and the best judgement of the chief election officer, and the returning officer has been removed and another person has been appointed instead, then of course by the time—supposing the chief election officer, not necessarily Mr. Bailie; he is there now. He can be there for many years, but then again, he may want to resign, whatever the case may be. The person in charge at the time takes this action. Then of course it can come to this committee or to the House and so forth. If the judgement call was not right, it may call for a reprimand or other things, but there is no appeal at that point in time.

If this happens on election day, for example, you need to have that power vested in the chief election officer, because how can he possibly go at 10 o'clock in the morning or 11 o'clock in the morning before a judge and try to remove this thing quickly and fast? By the time you get on, the day is over. The power must be vested in the chief election officer for that reason.

Of course, if he has made a bad judgement call, it will be dealt with in the Legislature or in committee at a later date.

Interjection: Right.

Mr. Matrondola: But he should have those powers.

The Vice-Chairman: Anything else? Could I just have two minutes to bring the chairman up to date on what we are doing?

Mr. Breaugh: It will take more than two minutes.

The Vice-Chairman: No, it will not. I am a fast talker.

Mr. Morin: With this amendment, it may be a case of the (inaudible). Could you have invoked that?

Mr. Bailie: Yes. It would not have helped us on election day. We have kind of agreed that it would be pretty precipitous to come in at, say, 10 o'clock in the morning and replace somebody. By being in her office and getting the thing reorganized, from that point on, everything went well. I think perhaps the day after there could have been an advantage to have had this particular power.

If I were to remove someone the cabinet has appointed, that would always be subject to review. The person would only be replaced subject to cabinet agreeing later anyway, because its order in council would still stand.

In fact, in the last election, we had to appoint two returning officers. It happens in nearly every election that when, all of a sudden, the announcement is made, one of the returning officers has a heart attack or a stroke; nearly every election. I guess it is just the shock of the news. This happened in Windsor.

Usually, what I do is phone the Cabinet Office right away and say: "I have to have a replacement almost immediately. If you have someone in mind, fine, you have the power, but if you haven't, under section 7 I have to deal with the subject."

They usually say, "Give us an hour," and they call back and say, "If you have somebody in mind, go ahead and appoint them," but the understanding is very clear that in the act the Lieutenant Governor in Council appoints returning officers, so that person is appointed only until such time as cabinet appoints or reappoints a returning officer.

Mr. Matrundola: Could we say perhaps temporarily or indefinitely or whatever, until a new appointment is made by the Lieutenant Governor in Council or whatever?

Mr. Bailie: You could say that. It might make it more clear and people might be more relaxed with, "until such time as the Lieutenant Governor in Council has made a new appointment," or something like that.

Mr. Matrundola: In my opinion, we are trying to serve the purpose here that if during an election you have a returning officer you feel is incompetent or not doing the job properly or careless or whatever, you want to make sure the position is filled and the public served properly; that is the intent of it. Therefore, by your having those powers vested in you, you are able to do that. Then, after the election, or if they come up with somebody in between, because the writ is about—what?—37, 38 days?

Mr. Bailie: Yes.

Mr. Matrundola: It can be 40 days. It can happen at the beginning, it can happen the day before the election itself or whatever. I would say

probably "temporarily," or for the entire period of the election, for the entire period of the writ perhaps, and then, of course, another person can be appointed by the council.

Mr. Bailie: I would like Mr. Stewart to respond to that.

Mr. Stewart: The question is: What happens when a returning officer is removed; that is, who acts in his place and carries out his duties?

Mr. Bailie: No, that is very clear. It would be what right of appeal does that person have, or the committee, of appealing my decision to remove a returning officer?

Mr. Stewart: First, there are still possibly judicial remedies. The fact that the act says "in the opinion of the chief election officer" does not foreclose that entirely. It merely means a large amount of discretion is allowed to the chief election officer in making his decision and coming to his judgement. If the returning officer wished to appeal to the assembly, the procedure would have to be decided by the assembly.

Mr. Bailie: So there would be a right of appeal. We could carry on with the election.

Mr. Matrundola: This is true, but the point I am trying to make—

Mr. Chairman: You are not satisfied?

Mr. Matrundola: The right of appeal will be there but will be dealt with in the next session of the Legislature, for example. What I am trying to understand is, if today you said, "I'm going to remove So-and-so," that person does not have the right today of appealing and being reinstated tomorrow or the day after tomorrow. In other words, it is for the period of the election or of the writ or whatever. That is what we are trying to understand.

The right of appeal will be there, but it will be afterwards. In other words, if the chief election officer has made a bad call, it will be dealt with in the proper fashion, which is fair and square. But at the same time, the chief election officer should have the power to remove this person and appoint somebody else, unless he is appointed by the Lieutenant Governor in Council or whatever.

I do not really know. During the election period, if you had to reappoint someone, how would you go about it? Say, three days before the election a returning officer drops out, quits, God forbid, dies. What happens?

Mr. Bailie: What we would do exactly is this: In the old days, someone would call the party. We have had problems with people being intoxicated; not since I have been here, but Mr. Lewis has told me. Someone would call the party and they would say, "We're sorry about that. It's our appointee," so someone would be assigned to take him to some hotel room or motel room, get them out of the way and allow the election clerk to take over. There is a procedure that when the returning officer is incapacitated the election clerk takes over. That is often what we would do.

That is often what I would do if we were talking about the final days of an election. But what I would always do is consult the Cabinet Office, because the cabinet has the right. If half a dozen cases come up within an hour, it is left to the chief election officer to decide, but I think because it is very

clear that that is who appoints the returning officers, the Lieutenant Governor in Council, the cabinet should be consulted. Usually it is fairly busy and it says, "You go ahead and make an appointment." But it is understood that the appointment lasts for only the period of the election.

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Mr. Chairman: Once the election is over, then—

Mr. Bailie: Yes, because I just do not have the power to appoint returning officers.

Mr. Chairman: No. What you are doing is appointing an interim one.

Mr. Bailie: Yes.

Mr. Chairman: Okay. Is everyone happy with the way that reads? And if you are not, will you remain silent so we can go on to the next one?

On subsection 8(2), election clerks, that seems eminently reasonable and if everyone is happy with that, we will go on to the next one.

On section 15, entitlement to vote, we have the present wording and then the proposed wording.

Mr. Stewart: This is purely a housekeeping amendment which would seem good to attempt if the act is to be revised, simply because the right of British subjects to vote was removed as of July 1, 1986, but all of the mechanism that was used to do that is still in there. If you read on the bottom of page 11 and the top of page 12 in the workbook, you see that the current subsection 15(1) makes it look as if in clause 15(1)(b) you can still vote if you are a British subject. Then you have to go on to subsection 15(2) do find out that those clauses were repealed as of July 1, 1986, and no longer exist any more. The proposed wording would simply remove the references to a British subject which are now unnecessary since we are past July 1, 1986, and place everything together in one subsection.

Mr. Sterling: I have a question. I notice that you have deleted clause 15(1)(e). Why?

Mr. Stewart: There are no longer any disqualifications against voting. It was recommended by the counsel in the Attorney General's office that it might be good to remove that at this time as it leaves a false impression. It leads people to look for disqualifications that are not, at present, there.

Mr. Sterling: Let us say I am not a Canadian citizen. Am I not disqualified under the act from voting?

Mr. Stewart: It is not that you are disqualified, it is that you fail to be qualified because you would not satisfy clause 15(1)(b).

Mr. Breaugh: This is because, previously, people who were incarcerated and several other classifications were normally entitled to vote but disqualified because of certain conditions, right?

Mr. Stewart: That is right.

Mr. Bailie : Judges, crown attorneys, mental patients.

Mr. Breaugh: Maybe we should hold on to that.

Interjection: You have got to be joking.

Mr. Campbell: I do not think we can anyway.

Mr. Sterling: I guess my concern is that I do not know whether as a matter of policy the government has made a decision to allow prisoners to vote or as a matter of courts making the decision. That decision seems to be mixed as to whether or not a prisoner should vote. Therefore, I wonder whether or not it is prudent to remove it at this time.

Mr. Bailie: The matter is settled.

Mr. Stewart: I cannot think of any objection to leaving it in or putting it back.

Mr. Bailie: We do not have any difficulty, but people call us up all the time and say, "What other act might someone be disqualified under?" We cannot think of any, you see, and if they do not say it they kind of imply, "Well, why do you have that in there?"

Mr. Sterling: The present legislation disqualifies prisoners from voting.

Mr. Bailie: Yes, the Election Act, but not whatever the incarceration act is, so it would not apply in the case of prisoners anyway. They are disqualified from voting under the Election Act wording, not some other act, so it would not even apply to them, would it?

Mr. Stewart: Clause 15(1)(e) applies to people who would be disqualified under this act or otherwise prohibited by law. There are the two provisions.

Mr. Sterling: Where is the provision that a prisoner cannot vote?

Mr. Stewart: It is not in the act, but the fact is that section 16 has been declared to be unconstitutional.

Mr. Sterling: Section 16 of this act?

Mr. Stewart: Yes.

Mr. Sterling: And it is your intention to take that out.

Mr. Stewart: When we get to that, perhaps I should point out that the purpose of this recommendation is just to make the act conform to the Charter of Rights and Freedoms in perhaps the simplest way. It is possible, perhaps, to design a prohibition against some inmates voting that would be consistent with the Charter of Rights. For example, the suggestion has been that criminals convicted of certain types of crime that involve fraud or deception or are clearly against the values of the community might be disqualified.

Mr. Sterling: I think that gets too complicated.

Mr. Stewart: That is the problem.

Mr. Sterling: But I would like to leave that section in. Quite frankly, when we get to section 16 I will make an argument that we do not deal with that particular problem and that the Attorney General (Mr. Scott) deal with it if he wants to.

Mr. Bailie: We have no problem with leaving that section in.

Mr. Chairman: Okay, we will leave that unamended. We will accept the proposed wording as it is.

Mr. Stewart: And add that clause 15(1)(e) is returned as in the present wording.

Mr. Chairman: And return clause 15(1)(e). Okay.

Mr. Morin: Can I just ask a question on the right to vote? There can be some extreme cases. I just think of the person in Newfoundland, for instance, who was caught selling secrets to the Russians. In my opinion, if a person can betray his country that way, I do not think he is entitled to vote, or a person who is disrespectful to the Queen. I do not think he should have the right to vote. Is there a way?

Mr. Breagh: What?

Mr. Morin: I mean that sincerely. Our whole democratic system is based on that.

Mr. Breagh: No, it is not.

Mr. Morin: Tell me why I am wrong.

Mr. Breagh: That is pretty dangerous stuff, to put it in law that if you are disrespectful to somebody, anybody, for that matter, in a free society, you lose your right to vote. How far would you take that?

Mr. Morin: Only in extreme cases.

Mr. Breagh: That is your view, and in a free society you have every right in the world to say, "Everybody should be very respectful of all our institutions, and especially the Queen," but there are millions of Canadians who mean no real disrespect to the Queen, I suppose, but you might think that because they do not fly the flag on their front lawn—

Mr. Morin: Disrespect to the crown itself, to the crown. That is what I meant.

Mr. Breagh: Well, there would be millions of Canadians who do not have a whole lot of respect for many of our institutions.

Mr. Morin: What about a spy?

Mr. Breagh: What about a spy? I would just make the theoretical argument that once you start doing that kind of stuff it is very difficult to sort it all out. If they are Canadian citizens, in my view the best thing to do is simply say that if they are qualified as citizens, they have the right to vote.

It is like the previous argument we got into. A prisoner in a jail cannot vote, but a prisoner in a halfway house can; or if they got a day pass today they can. I think that is what gets you into those kinds of difficult arguments. You cannot make those fine distinctions. You may think someone is disrespectful to the Queen. They may think, "I'm being more respectful to something else." I just think that is very difficult to put in law. They are all opinions we can have, but once you start translating that into disqualifying someone's rights, you have problems.

Mr. Sterling: I think you have to keep fairly clear, as section 16 is now, what your intent is. If in fact you have been a spy and you are in prison, then the way the present law is written you do not get a vote.

Mr. Morin: Yes, but we are changing that.

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Mr. Sterling: That is for us to decide, whether we are recommending a change in there or not. I am going to argue we do not change it, because the law is still in question. The Supreme Court of Canada may or may not decide as to what happens.

Mr. J. M. Johnson: Just the very questions you raised.

Mr. Chairman: We will leave that for now. If there is still some feeling we want to change it, we can come back to it later.

Mr. Campbell: I thought we were going to go through each section to see if people had questions. I am sorry if I did not make that clear.

Mr. Chairman: Do you have any questions with regard to section 15?

Mr. Campbell: No. I wanted to move back to section 12 actually, if I might, because I have questions on section 12.

Interjection.

Mr. Campbell: I know you are. As usual, you are way ahead of me. However, I could not catch your eye at the time. In the workbook, section 12, polling divisions—I bring it up here. It may not be the appropriate point in this act, but I could not find any other, so I picked the one that meets the subject, I guess.

Dealing with the situation in between elections where, either through an error or through an error on the maps that were being used as the foundation maps for the riding, inadvertently certainly in my riding, a very unclear line of riding boundary or electoral district boundary has happened. It is a problem that the city of Sudbury has dealt with on a number of occasions in its ward system, and I would ask if there is some comment Mr. Bailie could make about how those kinds of things can be rectified.

It has not been a problem up to this date, but with the expansion of the economy in Sudbury and increased residential areas, this is going to be a problem before 1995, when you actually do the formal redistribution, rejigging of the boundaries and all that stuff. You could perhaps comment for this committee as to how these kinds of problems could be dealt with if we did want to amend this area.

Mr. Bailie: If you would like me to comment at this time, it has been brought to my attention that there is this little anomaly in the dividing line between these two electoral districts, Sudbury and Sudbury East. We have had this come to our attention at different times, and even back as far as when I was a returning officer, I agreed with another returning officer to decide, "Well, this house is in my electoral district; this one is in yours," because the street pattern changed in the line that was decided eight years before that. The commission, of which Mr. Stewart was the secretary, would say, "Okay, here is the line between the two electoral districts."

The road pattern could change in the next six or seven years. That street could be adjusted over here, looped around, and all of a sudden this house, which was intended to be in that electoral district, if you read the description, appears now to be in this electoral district, but it has to be understood that it means where that street was in 1975 when the electoral boundaries were passed by the House. If someone moves the street, it does not change it, but it makes it very confusing.

I guess what we have done is just inserted a little bit of common sense and said, "Okay, look, obviously we do not want your two enumerators to have to go across this busy highway into what appears to be this other electoral district to enumerate one or two houses." We would have to explain to the people why they have then to cross the same busy highway and go up to a nearby school to the north, when there may be a school a block away from them.

As the office of the chief election officer, we have made minor adjustments, subject to ratification by the House, I guess, if it objected. We have a good case in point here, because the member has been talking about it. I guess the member wonders whether we need something in the Election Act. We confess we had not thought to draft any wording or suggestions, but if it seems important enough, we could very easily do something. We are at your disposal.

Mr. Chairman: I sure think that that may be very helpful in the future because you have to have the discretion and use your discretion, but you have to have the authority to make finer adjustments from time to time.

Mr. Bailie: One thing I might mention further is that in Quebec, after each election, the chief election officer does make a report to the House pointing out some of these matters. There are some other of what I would consider minor adjustment recommendations, so they do not wait for the 10 or 12 years.

Mr. Chairman: So every time, following an election or following a by-election?

Mr. Bailie: Following an election or perhaps a by-election; I would have to check.

Mr. Chairman: If you used your discretion in certain areas.

Mr. Bailie: Yes. We would then make a recommendation to the House about minor redistribution so that these people would not have to wait 10 years for a resolution or the chief election officer would not have to go out and make a decision, hoping the House would agree with the discretion used.

Mr. Campbell: I do not want to belabour the point. There is a very strong argument to be made for it. In the American system, gerrymandering goes

all over the place. I want to make it clear that there is a case for that, not only in my riding but in others, I understand from Mr. Bailie, because of changes in circumstances sooner than the 10-year period for redistribution formally. There should be some mechanism existing to take care of those kinds of anomalies.

It is beyond Mr. Bailie's control because the act clearly says that it should be in consultation with ward boundaries, which may or may not be appropriate. For example, Sudbury has not been changed since 1972. A lot has changed since then, and I think that other communities may be in the same position.

Not to belabour the point, but I just want to point out to the committee that there perhaps should be a mechanism to allow Mr. Bailie that kind of minor discretion so that people in the ensuing time can get used to whichever member they really belong to because, as the practice happens now, my information is going into Sudbury East. Just because there are a few houses that are outside the boundary, the postman does his walk and that is it.

I think it is important that the people not be confused even between elections as to who their member is. That helps the election process, people knowing whom to contact and that sort of thing. So I just really brought it forward. If Mr. Bailie at a subsequent time would like to more formally approach us with an amendment, perhaps when we get into the second stage of this, we could discuss it.

I just want to bring it to the committee's attention that that would exist on a number of occasions, without getting into a formal sort of change every election that changes boundaries all over the place. I think there is some argument to be made for the 10-year stability rule, but there are circumstances where things change.

Mr. Matrondola: I have a concern about the way polls are divided and where people need to go to vote. I can give some examples of the 1985 election and the 1987 election. Until 1987, certain people in a polling area in the district east of Bayview and south of Steeles were voting at one place which was very convenient. In 1987, they had to go out to Steeles, down Bayview into the convent there to vote, which was extremely far and difficult for them to go to, whereas in previous years they had been voting in a school just nearby.

I suppose these things are at the strict discretion of the returning officer. If they do something of this nature, can someone bring it to your attention perhaps? Do you have the power of correcting this type of thing because sometimes people will complain and ask, for example, "Why do we have to go so far when we can go and vote where we have gone all the time?"

That is one thing. The other problem I see, which creates a lot of stress and confusion I would say, is the way the polls are divided, taking a minor street in a subdivision and having half of the street in this poll and half of the street in that poll. Take streets A, B and C; if we take street C, the north side is in one poll, the south side is in another poll. Could we not split in between the streets and the backyards, so that one whole street is part of one poll and the other street is part of another poll? In other words, there are two lots back to back and we have the division in the two lots, rather than in the middle of the street.

If you take, for example, Yonge Street, of course, it is a main artery. The east and west side, that is fine; Bloor, that is fine; but if you take St. Mary Street, or if you take Grosvenor or whatever other street you want to take around here, the minor streets, I would say that would probably be better if it was done within the backyard. So the one street will be in the one poll and the other one will be in the other one.

Mr. Sterling: I have three questions. Number one, why, in subsection 12(1), do we not require consultation with the returning officer from the coexisting federal ridings?

Mr. Bailie: Good question. Actually, the instructions to returning officers are very explicit that they should consult with the federal returning officer. It is not in the act.

In our act, we do not try to put everything we are going to do in here. We try to make sure the things that we need to have in here, such things as common sense, you can rest assured—we could show you our instructions here to the returning officers. That is the first line of instruction: that they consult with the federal returning officer.

In the case where it is a new replacement, a former returning officer and a representative of each party in the area before starting on their work, it is definitely part of the instructions. But whether it needs to be part of the law, I guess, is what we are talking about right now.

Mr. Sterling: I find it passing strange that you ask for each clerk of the municipality to be consulted.

Mr. Bailie: The reason is that they are asked as much as possible to follow municipal boundaries. Now, that is the wording, going back many years, and we have not changed it.

In the case of the federal, for quite a few years, the fact that they have to was printed right in their act; another indication of why you need to be careful. It said that a poll could be no bigger than 250 electors, so their polls generally were a little smaller than ours. Now, they are trying to adjust them so they are somewhat uniform in numbers; we have a chance that they may be coterminous as well.

In an area like, for instance, North York, where the municipal election officials follow the Municipal Act carefully and set up what we consider good polls, our returning officers just generally go to the municipal clerk, purchase a copy of the map, a copy of the descriptions, renumber them because they only have a portion of the municipality and submit them. The federal returning officers, I understand, do the same, and there may be other municipalities.

Now, if you take the city of Ottawa, we do not want our returning officer to go anywhere near their office. They might as well get started on their work and get it done.

So how we instruct them depends on the municipality.

Mr. Sterling: Okay. I just think it would make sense to have a---

Mr. Bailie: You are right. It does.

Mr. Sterling: The second question I have is in relation to a confusion where the map says one thing and the words say the other. There is no resolution of that in the act, is there?

Mr. Bailie: In effect, there is, because in the act the map has no status. Am I right, Alan? It is the legal descriptions. You were talking about the wording?

Mr. Sterling: Yes.

Mr. Bailie: The wording is the item that has the legal status in the act and the map is just an illustration of those descriptions.

Mr. Sterling: I think it would probably be wiser to do it the opposite way.

Mr. Bailie: There are times when I certainly would agree with you, but I am just explaining that that is the way the act is worded. The returning officer is required to describe the electoral boundaries and so forth. The map, you will notice, is not even mentioned.

It is more, I guess, an improvement in the system, that availability of making copies of maps has become technically easier. Now they are supplied and are often considered the main source. But somebody could easily, and I have done it myself as a returning officer, when drawing the line down, just go a little further.

That is the status now. There would be nothing to stop us from at least reviewing that matter.

Mr. Sterling: Would you prepare a fourth amendment to include collaboration with the—

Mr. Bailie: Sure.

Mr. Chairman: We have dealt with section 15. Section 16.

Mr. Breaugh: One comment on that: I would like to have the argument about this now and get it out of the way. I would support deleting section 16. Just to go on a bit, it goes back to the little comments we had before. I think it is better that the Legislature says this than to let it go through the court process. I think the result is inevitable any way you look at it.

I know it is a little controversial in spots but, for example, I find it indefensible, to take Mr. Morin's line, that someone who may be a very evil person is allowed to vote simply because we have not got him into jail yet or he has got a better lawyer than somebody else and so is out walking around and able to vote. I am uncomfortable with this argument. I would feel on firmer ground if we laid out the qualifications for people to vote and, if they have those qualifications, they are entitled to vote no matter what the circumstances.

I think that this kind of disqualification, to take the other way around it, is not appropriate any more. I think the results of this, one way or the other, are inevitable and the best move for us now is to simply take a section like 16 and delete it. I think that is where we are going to wind up anyway and it is preferable, from a legislative point of view, to do it in this manner. I would be supportive of the notion that we simply delete section 16 of this act.

Mr. Matrundola: Very briefly, what happens if section 16 is deleted? Will inmates or people in a penal or correctional institution then have the right to vote or not?

Mr. Chairman: They not only have the right to vote; they have the right to demand that every facility be provided them so they can vote. That is the problem that you might have, the demands they are going to put on the system in order to be able to vote. That is the other onus, so we have got to look at this very closely.

Mr. Matrundola: In my opinion, it is a privilege to be able to vote, and to have people who are serving sentences vote—I do not believe they should have that privilege, quite frankly.

Mr. Sterling: I do not know whether I agree that it is a privilege. I think it is a right that every Canadian citizen has, but I think that right can be withdrawn if in fact the citizen has acted against the law, has been convicted of an offence and is incarcerated at that time. I have no problem with withdrawing that right from the individual for the period of time that he is incarcerated.

There are few black and whites left in our society, but one black and white we do have is that when you are tried before our justice system, and I agree our justice system is not perfect, it is a measure of whether you are guilty or not guilty under our laws. I find that notwithstanding the fact that the law is mixed at this time, I am foursquare behind the philosophy or the intent of section 16.

I do not agree with Mr. Breaugh that it is inevitable, that it will come to pass that convicted criminals will in fact have the right to vote in our country in the future. I do not think that the public supports that and I do not either.

Mr. Sola: I would like to agree with Mr. Sterling on that, because I think in our society in addition to rights we have responsibilities, and people who are incarcerated have abrogated those responsibilities. I do not think that people who have shown a disrespect for the law should be able to elect people who are supposed to be setting those laws.

It is a contradiction in terms that people who are not obedient to the laws as they are now would be able to elect people who perhaps reflect their views. You can disagree with the law, within bounds, but once you cross that boundary, I think you have also abrogated your responsibility, and in that case, I am against revoking section 16 unless we are absolutely forced to do so. I am hoping that the Supreme Court will judge wisely.

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Mr. Campbell: I would like to ask the legal adviser to tell us exactly what the status of this question is in law. Is it before the Supreme Court? What is happening?

Mr. Stewart: This section, section 16, has been declared to be unconstitutional as against the Charter of Rights and of no force and effect. The provincial Attorney General decided not to appeal. That issue is over as far as this section goes.

The complicating factor is that there is a very similar federal

provision and the litigation on that is still in process. The highest decision at the moment is from the Manitoba Court of Appeal, which said it was acceptable to disqualify prisoners. That decision is being appealed to the Supreme Court of Canada; that is, the motion for leave to appeal has been reserved, although the legal counsel for Elections Canada informs me that he is 99 per cent sure that the Supreme Court will hear the case and render a decision. But we are now talking about a decision a year to a year and half from now.

The problem is, even if the Supreme Court were to decide that the federal statute is acceptable, that would not in itself change the decision that has already been rendered on this section. It would create an enormous legal tangle, but there is still a possibility that the Supreme Court will render a decision indicating that Mr. Justice Bowlby's decision on our section 16 was wrong, and that would leave it for the Legislature either to—I am not sure what would be done in that case in order to resolve that ambiguity.

Mr. Chairman: I imagine it would depend on what we had done in the interim and what the Legislature did.

Mr. Stewart: Yes.

Mr. Chairman: If we had left this section in and the Supreme Court overruled the lower court decision, then of course it would still be very much part of our act.

Mr. Stewart: Except that would only apply to the federal statute, because the provincial matter is over. The Attorney General did not appeal the decision.

Mr. Breaugh: I would have thought Ian Scott had more support in this room than that. I guess not, eh?

Mr. Chairman: He has the support from time to time.

Mr. Chairman: Mr. Sola, did you have a supplementary to this particular thing?

Mr. Sola: Yes.

Mr. Chairman: Then we will go back to Mr. Campbell.

Mr. Sola: I was just wondering, if we revoked section 16 and the Supreme Court overruled and made it legitimate to revoke the voting rights of prisoners, where would that leave the province?

Mr. Stewart: If you repealed it and then it was found that such a statute or such a provision could be permissible, you would have to go back and re-enact another one. That may be an argument for not changing it as it currently is; I do not know.

Mr. Campbell: I accept the fact that one player may or may not have another player's interests in mind, whether it is federal-provincial, Manitoba-Ontario or whatever. I certainly would support the comments of Mr. Breaugh if I felt more secure that the issue was going to be resolved in the next short time.

But after hearing what you are saying with the lawyers not working out

what they can do, notwithstanding the fact that Mr. Breagh is quite correct that, as a legislator, I would prefer to make the rules and have a court decide the way our system is evolving constitutionally, I guess I am going to have to side with keeping it in, because I see problems.

Mr. Breagh: Doesn't anybody support Ian Scott these days? Am I the only one who supports him?

Mr. Campbell: Hang on. It is a different case. If your need to appeal is different than that, then that is fine.

Mr. Chairman: What did you have for breakfast?

Mr. Campbell: Wheaties.

If I might, I will conclude by saying that if there is a Supreme Court of Canada case and it is going to have some bearing on what sections are going to be in or out—

Mr. Breagh: Not on this law.

Mr. Campbell: Not on this one; I realize that. It is a federal and a Manitoba situation. But I suspect that then we may be in a position where we have to reinstate it at some point. There is a possibility. If somebody used it as a precedent—I know what you are thinking and it does not directly bear on our situation, but precedent-setting has a way of working its way into the rest of the legal system, does it not?

Mr. Stewart: Yes, that is right, although I should point out, for example, that in the Welland-Thorold by-election, the most recent by-election, any prisoners who lived there were in fact eligible to vote and will continue to be, since this section has been struck down. I just wish to point that out. That really does not have anything to do with the question of whether the word should be left in or not.

Mr. Morin: I expect that if we were to vote in favour of keeping section 16 in—

Mr. Breagh: You cannot.

Mr. Morin: Sure, we could. Nothing prevents us from voting and keeping it there. We could be told that we are wrong by the decision that is about to be rendered on Manitoba. Am I correct?

Mr. Stewart: Yes.

Mr. Morin: But it could also rule in our favour.

Mr. Sterling: What will happen, if I could just predict it, is that if we leave section 16 in, the Attorney General (Mr. Scott) is going to either change the law from the government point of view or not—

Mr. Breagh: Or change the Attorney General.

Mr. Sterling: It puts it into his bailiwick. If in fact the Supreme Court of Canada hears the Manitoba case and upholds the ability of the Legislature to disqualify people who are incarcerated, and section 16 is still in, then it becomes clearly a political initiative to either take it out or

put it in. Mr. Scott would be faced with either bringing in a piece of legislation to take section 16 out or stating the case to the Supreme Court of Canada with regard to our law. I think that would probably be what would happen.

Mr. Morin: Okay. Perhaps—

Mr. Campbell: If two out of three lawyers agree, Mr. Breagh, I guess—

Mr. Breagh: What we should do is incarcerate the lawyers. That would solve a lot of problems.

Mr. Campbell: Do not worry. On these things they are sensitive enough.

Mr. Morin: Perhaps we could ask the Attorney General to come and explain it to us here.

Mr. Breagh: Oh, that would be unkind. There is only me supporting him in the whole room.

Mr. Morin: The third suggestion I would have would be—I am just throwing this out—what if the court were to be given the responsibility to decide in certain circumstances when a person is not allowed to vote? Surely, a man who betrays his country, a man who sells his country out, should not be entitled.

Mr. Breagh: You are talking about Trudeau, then.

Mr. Morin: There are certain circumstances where a man should be denied these rights. Could the courts have that power?

Mr. Stewart: Yes, there have been various discussions I have had as to what kinds of disqualifications could definitely be justified even under any reasoning, and that suggestion is one of them, that at the time a judge entered a conviction, he would decide whether the offence he was convicting the person of was serious enough that the person should lose his voting rights as well as his freedom of movement.

Mr. Bailie: I have been studying this matter for about 10 years because I gathered it was going to come up. When I was in Zimbabwe representing Canada at the elections there I heard that prisoners had the right to vote. I went and observed it there. I have observed it taking place in Quebec. I went right into the maximum security area of a prison where they were voting, to see from my point of view what the mechanics might be if at some stage the Legislature told me prisoners had the vote. I have a personal opinion about it, but I am just serving you in a technical sense now.

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Mr. Chairman: What you are saying is that Mr. Breagh and Zimbabwe are on the same wave length.

Mr. Breagh: Ian Scott has never been slandered this much.

Mr. Bailie: I have discussed it with my American colleagues because

in several American jurisdictions they have these laws, in and out, worded differently.

If you may permit me to instruct you on this, I think a member has to decide, is a person sent to prison as punishment or for punishment? If I have committed a crime, I am to go to jail and there is a prescribed penalty. The judge, hearing all the evidence that we as individuals do not hear, seeing how that man answers the questions and responds to cross-examination, decides, "This man is to go away for eight years," and that is the penalty. The man has a right to appeal that eight-year penalty based on his understanding of his guilt or innocence and so forth. In other words, that is his penalty.

When he gets into prison, the chief election officer says: "I really don't like that particular crime you were convicted of. I'm not going to let you vote while you're in there, either." That is in the law here, so it does not sound too bad. Maybe the postmaster says: "I really think that was a particularly heinous crime. I'm not going to let you have any mail in the eight years." People start adding to it and he cannot do much about it; he is in there. He might have appealed it if he thought we were going to add all these other things.

He is in there as punishment and the punishment should be known at his trial, but he is not in there for punishment. We are not sending him there so punishment will be added. That is just a philosophy I have heard Americans discuss that people passing this kind of legislation should keep in mind. I am just sharing that with you.

I read the reasoning of one judge in the United States when he turned down a request to have legislation of this type in force. He said it seemed to him that a person who is incarcerated loses a lot of rights, the right to drive, the right to do this and that. Nowadays, from what we hear, it does not seem quite as distinct. He said, however, that there seemed to him to be one right that is most precious of all and that is the right to elect the men who are going to make the laws—

Mr. Sola: That you can ignore.

Mr. Bailie: Yes, that you can ignore. He said it seemed to him he might accept almost any argument except that a man should lose his right to vote. The only exception, in his opinion, which he might consider—he had not said he would—is if you were to say to the judge, "I think that if a man is guilty of an election fraud"—in other words, if a man was clearly and precisely guilty of an election fraud, a judge might say, "I think you should go to jail for four years and you may not vote for 10 years."

I do not want to appear to be arguing with any of the members here. If you feel this strongly—I am not arguing; personally, I am very sympathetic to what you are saying—I guess what these learned judges were saying is that you have to say, "Okay, the sentence for break and enter is a minimum of eight years and the loss of the right to vote." In that case, then, we would not have it in here, but we would have to keep that other section we were thinking of taking out.

I do not know if you are aware, but in the US, if you are guilty of certain offences, it is right in the law that when you are convicted you lose the right to vote. In most cases, it is not even restored when your sentence is over. You must apply to the Governor of that state to have your right to

vote restored. It is part of the prescribed penalty for that act.

In my humble way, I am trying to explain it. If you create a law that says, "Once you're in here, other people, administratively, can add things to this penalty, for which there's very little right of appeal"—

Mr. Sterling: Section 16 says if you are in jail, you do not vote.

Mr. Chairman: What we are saying here is that the Legislature is going to make the decision that you cannot vote.

Mr. Bailie: Right. I just shared some of the background with you.

Mr. Chairman: What you are saying is that the judge makes that decision.

Mr. Bailie: In these other cases where it works well, it is clear, then, to a prisoner that he is being sentenced to eight years and the loss of the vote for eight years or even more. I am just sharing with you what I have heard from these others.

If you want to leave it in, it will not present that much of a problem to the chief election officer except for this, my final comment on it: In the most recent Manitoba election, we had a similar situation. A judge had struck down the section, the Legislature did not do anything about the act and the election was announced. Then the chief election officer, being aware that a judge of the high court had said, "This section is without effect," had said the section was void, and because he knew he had to give the right to vote to everyone with a few days to think about how he might do it, had to set up a system for the prisoners to vote.

That is all the problem it would cause for me. You would be left with my using my powers under subsection 4(7), which says, "Where...by reason of any mistake, miscalculation, emergency"—which we would call this, I guess—"or unusual or unforeseen circumstance, a situation exists for which no provision is made under this act, he may make such appointments and give such directions as he considers proper and anything done in compliance with any such direction is not open to question."

In other words, if all of a sudden the election came and the Attorney General had not, through whatever devices were available to him, changed the court's opinion on this, then I would have to see that the prisoners got the vote and I would have to decide on the method. Is that right?

Mr. Stewart: Yes, that is correct.

Mr. Bailie: Because I cannot ignore the judge's order. I guess that is what I am saying.

Mr. J. M. Johnson: I feel very strongly that section 16 should be left in the present act. I am very disappointed we would consider that if an individual broke the Election Act, he might be subject to losing his franchise, but that if he committed murder, there would be no problem. I do not know why you would even equate the two.

I accept the proposition presented by Mr. Sola and Mr. Sterling, that people who are convicted of crimes should lose something. As you mentioned, they lose the right to drive; they lose many things. Certainly, I do not

consider them model citizens whose voting rights we should be concerned about. It just does not make sense to me today when one of the biggest problems we have in society is the lack of respect for law. I feel we would be sending out a message to the public that the law does not mean that much.

We are so concerned about drafting a fair piece of legislation that we would draft legislation that in my opinion is nowhere close to being perfect. There have to be penalties for people when they end up in prison, convicted of crimes. One of them, in my opinion, should remain the loss of their voting rights. I firmly believe that and intend to vote that way if this comes to a vote.

Mr. Breaugh: Seeing they already have the right to vote, they will continue to have the right to vote, and this whole argument is not only redundant but getting stupid. Could we move on to the next section?

Mr. Sterling: What are we going to do? Are we going to leave it in?

Mr. Breaugh: It does not matter.

Mr. Matrundola: I am still of the opinion that section 16 should be in, and it is not for lack of respect or lack of support for the Attorney General of this province, whether it is the person or the office he holds. What Mr. Breaugh is saying, in a way, is that there could be more evil persons out there with the right to vote and fewer evil persons incarcerated without the right to vote. The truth of the matter is that those who are incarcerated have been proved guilty; those who are out there are still innocent until proved guilty. The majority of the people who have committed a crime are in jail, or if they are being brought before the courts, they are being put in jail.

I believe there should be a deterrent regardless of party, regardless of the Attorney General, regardless of the past. I believe in my conscience and my conscience dictates to me at this moment, unless the law of the land rules otherwise in the Supreme Court.

Mr. Breaugh: It already has.

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Mr. Matrundola: We still have certain things pending, so until such time, I believe section 16 should be in and that is the way I am going to vote.

Mr. Chairman: The general consensus is that we include the wording that was in there before.

Mr. Sola: It seems quite clear.

Mr. Chairman: That is quite clear.

Mr. Campbell: As long as it is pointed out that driving is not a rightful privilege, so if it is not equated---

Mr. Sterling: The consensus is we are leaving it in.

Mr. Chairman: Leaving it in, yes.

Subsection 17(1).

Mr. Stewart: This section would, as previously discussed, allow an elector to vote by proxy if he or she has reason to believe that he or she will be unable to vote at the advance poll and on polling day. The existing wording, which you can find on page 12 in the workbook or on page 5 of the handout, contains seven specific categories to allow an elector to vote by proxy. This change would eliminate the categories and substitute the simple requirement of reason to believe that you will be unable to vote at the advance poll and on polling day.

Mr. Chairman: Any questions? Is section 17 okay?

Mr. Campbell: Just a clarification: If we deal with subsection 17(1), there are other ones, and we might want to touch on them, because there may be some questions on that, such as subsection 17(4).

Mr. Chairman: Subsection 17(4).

Mr. Stewart: On page 7 of the handout, I will call it, you see a consequential amendment. As Mr. Campbell points out, subsection 4 refers to people appointed as proxy voters under clauses 17(1)(a), (b), (d), (e), etc. Those clauses would no longer exist, so the suggestion is that the proposed wording would simply say: "On any day up to and including the day immediately preceding polling day, a person appointed as a proxy voter shall present the application to vote by proxy and the appointment in the prescribed form to the returning officer or a revision assistant of the electoral district."

Mr. Campbell: The Municipal Act allows you up till five o'clock on polling day to present a proxy. I do not think that has changed. I have not been a municipal politician for a while, but I do not think it has changed. What is the reasoning for up to the day before election day? Is that to allow administrative checking of the proxy?

Mr. Bailie: All revisions to the list in urban areas end at eight o'clock the night before. This is part of the revision process. It has always been included as part of the process. The decision of the Legislature—the Tories, at that time, 1984—was that it did not want a revision of the list to proceed into election day. You know we have some proposals along that line, and that is why that ends at that time.

Mr. Campbell: Okay. So if the proposals we are looking at under other sections, such as swearing in or vouching or whatever system we propose to use, are taken into account, what would that do to the proxy section? Would that bring it into line with the swearing in and other things that occur on election day?

Mr. Bailie: We would seek your approval for a consequential, shall we say, change, bringing it into line.

Mr. Campbell: Okay. That is all I need.

Mr. Chairman: Section 18.

Mr. Stewart: Enumeration. This is a little bit more complex.

Mr. Chairman: Shall we go through each section there, from subsection 1?

Mr. Stewart: Subsection 1 does not change. The new subsection 2 would be in a sense an added requirement. "By the seventh day before the enumeration is to begin," the two candidates who can appoint enumerators "shall inform the returning officer of the number of enumerators they intend to nominate and of any polling divisions for which they do not intend to nominate an enumerator."

The point of this is to give the returning officer pretty well immediate notice of how many enumerators he is going to have to recruit himself so that he can get about doing it.

Subsection 2a would then go on to say that "up to the fifth day before the enumeration is to begin...the candidates...may furnish the returning officer with the lists of nominations." This is a change from the present wording, which allows submission of such lists up to 72 hours before the enumeration is to begin.

The proposed subsection 8(3), which is at the top of page 9 on the handout, requires, as presently, the returning officer to "select and appoint two enumerators for each polling division, one from each of the lists." but provides that "the returning officer shall not appoint any person whom he does not believe to be qualified for the office."

The justification for this is that the returning officer, having the ultimate responsibility for the conduct of the enumeration, should be entitled to reject a person nominated by the parties if he does not believe the person can do the job.

Subsection 8(4) provides that when it is clear a candidate is not going to nominate an enumerator, either because the returning officer is told by the candidate or because the time for such nominations has expired, the returning officer shall go ahead and appoint two enumerators "selected by any means he considers appropriate"—in other words, you can recruit in whatever way is possible—"but representing as far as possible two different political interests."

Mr. Campbell: With all due respect, I think you are going to have problems in some areas. We have already heard from one riding that had some administrative difficulties, if I might be so bold, between the returning officer and the other employees therein. I wonder if there is some way of somehow spelling out what is disqualification for this office.

I can see a returning officer holus-bolus rejecting a whole list of people, saying they are unqualified, with no recourse or no explanation of why that person believes that. He could say, "Well, you're not really a member of that party the list is being presented by, and that's reason enough to be disqualified from being in this position."

I wonder how you would deal with that, because I sense some real problems spelling it out this way in the act. You do one of two things: you either spell out what the qualifications are beyond the normal ones you have already listed or you somehow, administratively, deal very carefully with the qualifications of an enumerator. I know you are going to have problems; I will

be even bolder. You are going to have all sorts of problems, and I do not want to wish that on you at all.

Mr. Bailie: What Mr. Campbell says is possibly true. We have problems under the system we are operating presently, so returning officers have recommended this to us, and after careful consideration we are asking you to at least consider this. But it is true that we are going to have problems either way.

If the chief election officer has a little more control over who becomes a returning officer and who remains the returning officer, then my office could have a little more control over the potential problem you are talking about, but I am not suggesting it would eliminate it. It could happen.

All we are saying here is that at present you should be aware that the names are nominated, and in some cases—surely none of the people represented here—we get the names of people you do not want hanging around the committee room.

Mr. Campbell: Very astute observation.

Mr. Bailie: If that had not occurred to somebody, I would hate to give you—

Mr. Chairman: I am sure we can add an extra day to these hearings so we can discuss that.

Mr. Bailie: The point is that at present, we have enumeration difficulties in certain electoral districts. The candidates call upon the returning officer as the person they believe is ultimately responsible for enumeration and say: "How come it didn't work better? You're in charge of it." The returning officer says, "But the difficulty is that you selected all my employees." They know you get to select them and that in the next election they get the job again if you say so, so they do not pay enough attention to what I say.

That is the difficulty, and I am not sure that this would solve it. I am not sure at all. It is just that it is common in arrangements usually that if you give me the responsibility of doing something for you, you will give me a little bit of authority over the people who are actually going to do the work. If you do not and problems occur, we are in this invidious position of not being sure just how to correct the problem. This is for your consideration, but it is not a panacea for the problem.

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Mr. Breaugh: I think this is going to cause some difficulties. To tell you the truth, I kind of think the way that it is proposed here is going to be more bother than it is worth.

Without getting too officious about it, one of the problems has always been basically that there really are not any qualifications for occupying any of these positions. That has been a problem. There is no need to know the law. There is no need to have any experience. It is common practice in many polling stations, in every election that I have ever been in, that the person who is appointed to do a certain job knows nothing about that, but some old salt who

has run every election in that poll for the last 25 years knows what is going on and somebody tells him that.

I have been in elections where the local returning officer did not have a clue how to run an election but was smart enough to find somebody who had run some elections in that area and that person, whether he got paid for the job or not, told this other idiot how to do this thing. That is certainly not uncommon.

Mr. Campbell: That is very graphic.

Mr. Breaugh: To turn this around is going to be difficult, I think, but I do know that, for example, even a simple thing like enumerating, which on the surface appears to be a pretty straightforward job, falls apart because people are not familiar with the preparation of lists, how to spell different names; even the typing thing is always a big hangup.

Does it make any sense to kind of lay out—and I do not know whether you would want to do it in the act itself—what you mean by "qualified"? If these names come in from political parties—and I tell you I am having a little trouble with that these days, but I know that is the way people want to do it so continue to do it—surely we could say:

"The Liberals in this riding can nominate anybody they please. Those who are nominated in such a manner simply have to attend a one-day course and at the end of the course have to pass a simple test. If you pass the test, you're okay. If you can't pass that test, you're not going to be an enumerator or a DRO or whatever."

Some simple thing like that might get us out of this. I have always thought it ironic that you cannot sell hot dogs on the corner without a licence, but there is no licence for enumerating during the course of an election. There is no set of qualifications for the people who run the election either.

Maybe the way to approach this is to be a little more specific about what you mean by being qualified and maybe that simply means that the information sessions that are run now have a little test at the end of them. If you pass the test, you are qualified to be an enumerator or a DRO or whatever it is. I think people would understand that, at the end of the day, there is a test. If you pass it, fine; if you do not pass it, our apologies but you will go back to the Liberal committee room and make coffee.

Mr. J. M. Johnson: Does that apply to candidates too?

Mr. Breaugh: No saliva test for candidates ever, Jack. You know that.

Mr. Baillie: I just have one small difficulty with this, but I am sure we could manage. In some of the very outlying areas, isolated areas, we actually have to drop a kit by plane to someone who is experienced, who is known to us. I guess the returning officer's word that this person passes the test would apply.

Mr. Chairman: What you would have to do is pass a message to say you have passed.

Mr. Breaugh: You pass; exam to follow.

Mr. Campbell: Just to add to that, I am not as concerned about that if in fact we did what this committee seems to be working towards. A more equitable system of swearing in would solve those kinds of problems. For the most part, I think we are trying to solve the bigger problem of enumeration.

The only comment I would make about the test is that it be centrally designed by your office and given to the riding operation to administer with very clear instructions on how to mark and grade and all of that stuff. But I think that that proposes a little more of a solution that we are working towards. Thank you.

Mr. Chairman: I do not have a problem with a test, except that I just think that you have a lot of difficulty getting enumerators. It really is difficult. Then, when they call in, they want to be an enumerator and you say, "Yes, that is great but you have to pass a test," you are going to get a lot of people saying: "What the hell? Can I pass this test or not? It may be difficult."

Mr. Bailie: We were not going to warn them.

Mr. Chairman: But word will get around. I am not opposed to the principle.

Mr. Breaugh: Literally, there are people enumerating who cannot read and write. They cannot read a simple set of instructions. The reason they foul it up is they simply cannot read it. If they cannot read it, you cannot expect them to follow it. That is the problem.

Mr. Campbell: They are required to attend a training program right now.

Mr. Chairman: Yes, they are.

Mr. Campbell: Maybe the indication of the test is some ability to make sure that the instructions have been given properly. I am not sure always that it is the enumerator's fault. Sometimes it may be the trainer who is not too with it.

Mr. J. M. Johnson: I wonder if there is not a commonsense approach so that when in the opinion of the election office someone is not qualified to do a proper job, there is some discretion there rather than going through a test to weed out the few people who could create other problems.

Mr. Breaugh: How would you weed them out?

Mr. J. M. Johnson: Surely, the returning officer would have the ability to determine that an individual cannot read or write, and I am sure he could just say--

Mr. Breaugh: How would they do that without a test?

Mr. J. M. Johnson: All I am suggesting, Mike, is if there is some way without using a test and if during that training session it came to their attention that the individual could not pass the test--

Mr. Breaugh: If somebody did that to me, I would certainly want to

say, "What is the basis for your saying that I am not qualified to be an enumerator?" and you would have to tell me.

Mr. J. M. Johnson: Hand them a piece of paper and ask them to read it.

Mr. Breaugh: And what is that called, Jack?

Mr. J. M. Johnson: That is called oral instruction.

Mr. Breaugh: That is called a test.

Mr. J. M. Johnson: All right.

Mr. Sterling: I agree with your comments, Mr. Chairman. I think there are enough problems in getting enumerators. I just think that the returning officers in general try to identify a real problem that is coming down the pipe. If a problem like that arises, they usually shove that DRO off to the side and make him a clerk or some other position. I just think that if you start putting too many qualifications in here and the timing is such that -

Mr. Breaugh: We are not asking for a PhD.

Mr. Sterling: I know we are not asking for that. We are asking for another step in the process. I think that in trying--

Mr. Campbell: But it could be built into the training program. The problem is that if they are going to the day-long or hour-long or minute-long seminar, because that is basically the three variations you have in this training process, a test is not--I do not mean a PhD thesis. I think--

Mr. Chairman: I do not want to belabour this, but obviously--

Mr. Breaugh: You only have to beat down one more. Go ahead.

Mr. Chairman: I know what you are after, but I just think you are going about it the wrong way. I have a real problem with it, because you get 100 people at a training session and you say: "Look, we have to mark the test. We can't give you the kits until you have passed the test. So come back tomorrow and you can pick up the kits." Half of them come back tomorrow. Then the returning officer--

Mr. Breaugh: Are they very likely to go back into a re-enumeration to make their second call? See, this is the problem. You give them the kit and you turn them loose on the street and they are supposed to come back and do callbacks, but they do not bother.

Mr. Chairman: Yes, but doing the test does not necessarily guarantee that they will.

Mr. Breaugh: No.

Mr. Campbell: But I think you will have a better shot at getting a preselection done if, in fact, it saves time at the other end and if the work was properly done so it does not drive the returning officer crazy trying to fix things after the fact. I would prefer going in to see what you can do to

try and eliminate, in a very basic way, I understand, but at least get some of the very clearly incompetent people out of the action.

Mr. Chairman: The returning officer right now can appoint those people and can reappoint them, etc. I have had people who have served sometimes three and four elections as enumerator, and the returning officer said to me, "I do not think we are going to reappoint them this time." I said: "That is fine. Obviously, they have not done a good job in the past and that is it."

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You have to make sure that people who are going to write an exam or a test do not cheat on it. To be able to mark it quickly, it is going to be true or false, multiple choice or something of this nature. You are not going to have a lot of written answers.

I am not sure it does a lot for you, I really do not. I think you are adding a bureaucratic hurdle that is not going to do anything for you. That is what I am afraid of. I mean, I want qualified people. I am afraid we are going to add a bureaucratic hurdle that is not going to accomplish what you want to accomplish. You are going to add time and money to the whole process.

Mr. Bailie: Could I respond?

Mr. Chairman: The chairman as usual will remain very neutralized.

Mr. Bailie: All of the things that you have said, we have said ourselves and we have had these concerns. Let's face it, we are talking about municipal enumeration, where there is a stated time to start and a stated time to finish; then, you would just move the stated time to start up, insert a day or so to accomplish this end, and then you would not affect the end results. Unfortunately, we do not have the luxury of time. You are right and I have the same concern.

Could you just listen to this wording I have just whipped up on short notice, "The returning officer shall not appoint any person he believes is unable to complete the work of an enumerator." Then we would perhaps have a form that they fill out when they come in to make sure they get their cheque to the right address. We would have instructions to read in order to fill it in, and we would make sure that they had to write out their name, address and a little bit of another statement.

Then, before we would reject anyone, we would have that available in case someone questions this. It would not be a case where, if we did not like the colour of their tie, we would say to the person they have appealed to: "We asked them to fill this out to make sure that they received their pay." What would you say? We cannot have people doing work who, you know, put down their grocery list instead of their name and address or something like that. That would be an effective test. We would not call it a test, but it would be an indication of whether they could read simple instructions and could write legibly and firmly.

Sometimes we have had people we have had to recommend the returning officer not hire the next time. One lady said to me, "I think I did a good job as a poll clerk." I said: "Look. I am sure you are very conscientious and so forth, but I have the poll book in front of me and I cannot read these names."

That is stuff that we must be able to do if we are reviewing something. Though her writing was kind of neat looking, you cannot read it. It is something like my wife's. People talk about her beautiful handwriting. If you are reading a letter, you can read it because one word helps you understand the next one; but, as a grocery list, there are words on there—

Mr. Breaugh: I have used that excuse for years and it never got me anywhere.

Mr. Bailie: The point is, we would have something to show them if there was an appeal. Would you accept that kind of a wording? If the returning officer believes that they are unable to complete the work of an enumerator, you would not want them appointed anyway.

Mr. Chairman: Absolutely, I agree.

Mr. Bailie: Instead of being "qualified"—that word leaves a little more room for judgement—"unable to complete the work of an enumerator."

Mr. J. M. Johnson: I think that is an excellent idea with the pretest. I commend the chief election officer for his compromise and being able to solve these difficult problems.

Mr. Breaugh: The only problem is, he is not going to be the one who does it. This sounds very nice and it looks like a workable solution here and now. When it is out in your riding the next time and the local returning officer, whom you do not like, says to one of your friends, "You can't be an enumerator," remember what a wonderful idea you thought this was.

Mr. Chairman: Mr. Bailie, do you want to just repeat that?

Mr. Bailie: Taking it from the last comma, "but the returning officer shall not appoint any person whom he believes is unable to complete the work of an enumerator."

Mr. Matrondola: I want to ask one thing: Do the people who are appointed as returning officers have a test or screening or is it strictly a political appointment? I am concerned that we appoint returning officers without a test and then we are going to look for some sort of test for poll clerks or deputy returning officers or enumerators and things like that.

Do you understand what I am trying to establish here? If we have returning officers who are competent, I believe returning officers should have a test, because it is a permanent position until he or she resigns or for some reason is removed. Once you have competent returning officers, I believe they will be competent in screening or giving instructions to the enumerators, poll clerks and DROs.

Mr. Campbell: May I suggest that if we are dealing with enumeration, we deal with it when we get to poll clerks and officers?

Mr. Chairman: Yes, we will be coming to that later.

We are okay with subsections 18(2), (3) and (4)?

Mr. Breaugh: Throw these people in jail so they have the right to vote.

Mr. Chairman: Section 19.

Mr. Stewart: Section 19 will provide for the repeal of the provision that requires that one copy of the list be posted by enumerators in urban areas. The rationale for the recommendation is that the posting of the list is considered by very many people in urban areas to be an invasion of privacy. That is the bad side of it. As for the good side, the reason this provision existed in the past was to allow the lists to be posted so that people could check them and see that their name was on them and see if there were any names that should not be on them. The benefit that is received from that at present just does not seem to be any longer great enough to justify the invasion of privacy involved.

Mr. J. M. Johnson: Just for an individual to check and see if his name is on the list, would there be any merit in having some phone number the individual could phone to determine if his name is on the list?

Mr. Bailie: Yes, we would advertise, and we already do advertise, that you can phone the returning office to make sure your name is on the list. If this section were changed, we would have to make a commitment to make sure we were even more careful to advertise this procedure.

Mr. J. M. Johnson: In rural areas where long-distance calls prevail, it would be beneficial to have a number in each calling area.

Mr. Bailie: The ads say to call collect.

Mr. Campbell: In the past, it was only in urban ridings that this was done. What was the practice in rural ridings?

Mr. Bailie: In 1984, we had proposed that the lists no longer be posted because of the numerous complaints we receive and I know members receive, and the clear indication that at the time of the posting of the list women living alone were harassed.

Mr. Campbell: You may have misunderstood. In a rural riding, are they posted?

Mr. Bailie: They are not posted.

Mr. Campbell: Before this was proposed, there was a difference again between urban and rural ridings.

Mr. Bailie: No. We proposed in 1984 that the list no longer be posted. The legislators, in their wisdom, decided it should remain posted in the urban, but not the rural. What I want to tell you is that the chief electoral officer of Canada and I conferred on this. He made a similar proposal and the opposite was decided: that they would continue to be posted in the rural but not in the urban. It makes it very confusing for enumerators and the general public.

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Mr. Campbell: I will confuse you once more. Again, the province in its wisdom has removed the requirement for a municipal list to be posted. I think maybe we should follow practice.

Mr. Chairman: We are okay with subsection 19(3). We are up to section 20.

Mr. Matrundola: Very briefly, on clause 19(3)(f), amended July 10, 1986, "the determination in consulatation," is it "in consultation with the chief election officer"? See the amended addendum at the bottom of page 16, clause (f).

Mr. Stewart: Page 16 of the work book.

Mr. Matrundola: That is correct. Is it, "the determination, in consultation with the chief election officer"? It says "consulatation," at least on my copy.

Mr. Stewart: The word should be "consultation."

Mr. Matrundola: That is what I thought. Just take off an "a."

Mr. Sterling: With regard to the special enumeration, one problem that I have had is getting the returning officer to react quickly to a situation where I, as a candidate, was being bombarded by a number of people in this particular area to have a special enumeration take place. What is the financial situation with regard to having special enumerators go out over an area which an enumerator has missed?

Mr. Bailie: There is no financial problem, because even if the area is sparsely populated, they are basically paid by the day, not the name.

Mr. Sterling: What I am saying is, in the total package which a returning office gets paid—I am not sure of the compensation—for instance, if one returning officer has to hire a number of special enumerators and another one does not, is he penalized in his total compensation?

Mr. Bailie: No, he is not. The only thing is that one would have fewer people to instruct and supervise, that is all. Every returning officer is told to appoint teams of special enumerators. In rural areas, because vouching is allowed, they do not usually need special enumerators to the same extent, but it is my position that they should appoint at least one there, because someone may say: "I want my name added to the list now. I do not want to just be vouched for on election day." They have that right. What it would mean is that they would have to have a pair of enumerators standing by in an electoral district, notwithstanding that it was largely rural. In an urban area such as Mr. Matrundola's, they would be told they need three teams of enumerators.

Mr. Sterling: My problem is this: in the May election there were a lot of students involved who were just out of university and some of them were better than others. Some were excellent, but some of them were not and they were thrown into areas which they were not that familiar with and missed a whole street, for instance. I had a very difficult time getting the returning officer—this was out in a smaller village in my riding—to go out and get somebody to walk up and down that street.

Mind you, all of those people could have been vouched for at the poll, but what that takes then is an explanation to each and every one of those individuals as they call my office, and I am sure call each of the other campaign offices. It is a general pain in the butt for guys who are trying to run a campaign and get on with the election, period.

What I would like to see is some kind of provision in here whereby a registered candidate, a candidate who has filed his nomination papers, let's

say—if I file my nomination papers on the second day the election is called, I am eligible—can say to the returning officer, "I have received 10 phone calls or 10 contacts from the one area and I am demanding that you send a special enumerator out there."

Mr. Campbell: If this is repealed, the elector can do it directly and not have a problem with it.

Mr. Sterling: It is not the electorate. You are not relating it to a rural problem. A rural problem is such that the returning officer's place may be 25 miles from the village. What you are doing is throwing the burden on the elector to get down to the office to register himself and all the rest; when if the returning officer were quick and said, "Okay, we'll get somebody out there this afternoon," you shut all the phone calls off and the person can go up and down the street and deal with the situation.

Mr. Campbell: But then you are back into the special enumeration, which is what you are trying to get away from.

Mr. Sterling: Why are we trying to get away from it?

Mr. Campbell: Because it makes it simpler for the elector, through whatever process is worked out here, to be on the list rather than waiting for somebody; even when you send a team, they may not be home and so on and so forth. That is why it is back on the electors at their convenience to present themselves or something.

A special enumeration now, again, may be an urban area, but I do have mine sites in my riding which would count roughly equivalent to your rural problem. If we went in and just took a vanload and said, "Here are the electors," it would have been much simpler, because when they sent the special enumeration team out to the missed street, it only succeeded in getting about 25 per cent of the people home, because most of the people were on shift and were not home anyway.

Mr. Sterling: The special team should have to go back again until they are home.

Mr. Campbell: Simpler, why not have the elector go to the station or you as a candidate pick them all up, or I as a candidate, and take them in?

Mr. Sterling: That is not simple.

Mr. Campbell: I appreciate that I am simplifying a bit. Due to the lateness of the hour, I may be doing that.

Mr. Sterling: That is not simple. The fact of the matter is that if you are providing an enumerating process whereby people are supposed to knock at the door until they get an answer, and because of a mistake missed a spot, then I think it is incumbent on us to go back to those particular spots and have people knock on the doors until they get an answer. I think the candidates should have some right to force the returning officer to do it.

Mr. J. M. Johnson: What do you say, Mr. Bailie?

Mr. Bailie: One thing I have to point out to you: If you turn to page 17 of this workbook we have provided for you, right at the top it says "Special Enumeration." In mine I have added the word "Urban," because if one reads subsection 19(4), it says:

"Following preparation of the list of electors by the enumerators and up to and including the 14th day before polling day, any person who has knowledge of the fact that the name of an elector resident in an urban polling division has been omitted from the list, may so notify the returning officer."

Then it tells you what will happen. So at present, special enumeration only applies to urban polling divisions. We would have to give some thought to deleting the word "urban."

Subsection 19(7) says: "On completion of the enumeration the returning officer shall cause any names obtained under subsection (6) to be added directly...." Subsection 19(6) says: "The returning officer, before the preparation of the polling lists, shall cause special enumerators to call once at the address of any elector referred to in subsection (4)...."

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So it does not apply just to rural. Under my emergency powers, I tell returning officers that if an actual street or one side of a street or a building has been left off, I consider that to be an error and they should take care of it by special enumeration or sending out revision assistants.

What we are proposing here, you will notice, is to eliminate special enumeration and replace it with an affidavit at the polls, both urban and rural. We have these anomalies. We have special enumeration for urban, but we do not have it for rural. We have vouching for rural electors at the polls, but we do not have it for urban. We think we will have enumeration, we will have revision assistants to revise the lists up to the poll, and if a section is left off, a street such as you have described, a pair of revising assistants will go out and add the voters.

So the name is on the list. They do not necessarily have to use the affidavit system. However, if the time is such that it is getting near the end or we did not hear about it—or what often happens is we hear that a street has been left off but we look it up in the list and we find there are actually six, seven or eight people in that block on the list. It is not quite as it is described, that the section was left off; but there were very few people home when they called, perhaps on shifts. We are faced with then taking care of that.

Our plan is that by this affidavit at the poll no one would lose his right to vote. When they arrived at the poll, whether their names were on the list or not, they would have an opportunity to show the DRO they were qualified and, by affidavit, make that declaration and get the right to vote.

Mr. Campbell: I think the assurance or the aim that we are looking at is to make sure the electorate is not, at the end of the day, disfranchised from voting. That is the bottom line. I think both of us agree on that.

Mr. Sterling: Not only that, but discouraged from voting.

Mr. Campbell: Okay, but that is the next step. I think one way we have to deal with it is all these 14 days and 12 days. The person is on the list in every shape or form. Because of where they live or what happened, a mistake was made and it is too late to change it.

I think if you are saying to somebody: "Look, you have the right up to

election day to come in and you have to go to a polling station to vote anyway. You can in fact be sworn in at the poll and be there," that is, on balance, an easier proposition to have people vote than the other way, the horror stories that we heard about all across the province, where things were missed and it was too late to do anything. They were disfranchised.

I think when we are trying to strike a balance in dealing with people at the end of the day being allowed to vote, that outweighs perhaps the discouragement factor that is in there. You are a rural expert, obviously. You are in a rural riding. But I think we will come a lot closer to getting people on the list to vote than we have under the present system, and I guess that is what my argument basically is.

Mr. Sterling: I am not satisfied that the motion put forward is the best one. I think that when you identify problems during the election period, in a small village it may mean not only a problem of disfranchising them. Even though they live across the street from somebody else, the polls may be significant distances from each other. So if they do not get a call from the enumerator, they do not know whether to vote, they end up in a wrong poll and then they get discouraged again from participating.

I have had places where because the poll maps were drawn incorrectly by the returning officer, in fact, a whole concession line was left out. I had one devil of a time getting a returning officer to send somebody back in to go up and down that road in order for those people to get on some kind of list or even be informed that they were being enumerated. They knew that the other road had been enumerated.

His answer was: "Travel 35 miles. Go and register yourself if you think it is a problem." Then I would say to the people, "But you can vouch." I may have said that to the 10 people who phoned, but what about the other 90 who did not phone?

Mr. Morin: In a case like this, would it not be better on your part to give a call to the chief election officer and identify that problem so that you use your clout and call on the deputy returning officer and say, "Look, do it now." That is what I would do.

Mr. Sterling: Eventually that is what I threatened to do and I finally got the guy to move, but it took me a phone call. I could not get my campaign manager to do it.

Mr. Morin: You were busy.

Mr. Sterling: That is right.

Mr. Campbell: I suspect, though—now again, the urban experience—that when in fact there was a special enumeration done, a majority of the people were still missed, even if you go back and back and back. There is a time limit when you have to report in a list at some point.

If you have done your best to go back, particularly in a summer situation where a lot of people may be away at camp and may not be home at night for whatever reason, or in the daytime because they are working, you never, unless you go at midnight and camp out on their front door, catch those people. So do we not have a responsibility for electors to take responsibility? I guess that is what I am saying.

Mr. Sterling: But there is a significant difference between the two cases.

Mr. Campbell: With the safeguards, though, on by-election day when they have to go and vote anyway, there is a procedure for them to be on the list and actually cast their ballot.

Mr. Sterling: But in the one case, the enumerator has left his mark. He has done his job properly. He has left a slip under the door or whatever. In the other case, there has been no contact. Regardless of the laws you pass or whatever, people are accustomed to being enumerated before an election. If they are not enumerated and they have found that the people around the community have been enumerated, they start to ask questions and make phone calls.

I think people whose doors have not been knocked on should have their doors knocked on as soon as it is brought to the attention of the returning officer. Any registered candidate should have the right to demand that of the returning officer, to say: "Look, your guy missed the main street of North Gower. I want somebody up there knocking on doors and enumerating those people."

Mr. Chairman: Mr. Matrundola, and then I think we will finish up, if we can, on this matter. If not, we will continue it after lunch.

Mr. Matrundola: I believe that on page 11, where subsection 19(5) says "the returning officer may appoint," it should perhaps read "shall appoint" because a returning officer may simply say, "I may appoint, but I don't have to and therefore I'm not going to send somebody out there."

What Mr. Sterling is saying was very valid during our 1985 election when we had sections of the streets left out in half or three quarters of the streets. I might add that the impression was that the pockets of the areas that were Liberal at the previous election were left out and vice versa. Maybe it was the opposite in Mr. Sterling's riding.

Also what I saw during the last federal election was that when signs were up already, in areas where the sign was up, people were systematically not enumerated. Where there was no sign or a different sign, there people were enumerated: sign-jumping, so-called. I believe that there is merit because what these people do, I understand, is knock at the door. If there is a sign, they knock at the door, leave a slip and leave. By the time you come outside you do not see anyone, or they may be in the backyard or in the basement or in the washroom or whatever the case may be.

I believe that not only should returning officers send someone, but in cases like that, normally the candidate should have the right to say, "I'm appointing so-and-so from my party to go," and the other candidate may appoint whomever he or she wishes to go. These two people will go and then it is in the interest of anybody and everybody to get the people on the election list.

Mr. Chairman: I am glad to see, Mr. Matrundola, that you are ambivalent about this whole thing. I think we are going to leave this until after lunch. I thought we would get this section finished very quickly, but it does not look like we will.

Mr. J. M. Johnson: Just in regard to his comments, they did not miss enough Liberals last time.

Mr. Chairman: This meeting will be recessed until 2 p.m.

The committee recessed at 12:20 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY
REVIEW OF ELECTION LAWS AND PROCESS
WEDNESDAY, APRIL 12, 1989
Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)

Breaugh, Michael J. (Oshawa NDP)

Hampton, Howard (Rainy River NDP)

Johnson, Jack (Wellington PC)

Matrondola, Gino (Willowdale L)

McClelland, Carman (Brampton North L)

Morin, Gilles E. (Carleton East L)

Sterling, Norman W. (Carleton PC)

Stoner, Norah (Durham West L)

Sullivan, Barbara (Halton Centre L)

Substitutions:

Cleary, John C. (Cornwall L) for Mrs. Sullivan

Sola, John (Mississauga East L) for Mrs. Stoner

Clerk: Forsyth, Smirle

Staff:

Yeager, Lewis, Research Officer, Legislative Research Service

Witness:

From the Office of the Chief Election Officer:

Stewart, Alan, Special Adviser (Legal)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, April 12, 1989

The committee resumed at 2:15 p.m. in room 228.

REVIEW OF ELECTION LAWS AND PROCESS
(continued)

Mr. Chairman: I call this committee meeting to order. We were dealing with section 19 earlier. Mr. Campbell, do you have some comments?

Mr. Campbell: I consulted over lunch with the legal counsel to the commission and I believe that both sides' questions will be answered if we take subsection 21(3), the revising agents, and if we proceed with our informal intent at this point to deal with the question of swearing in, vouching, whatever, at the poll.

Both sides of the argument, I think, would be clarified and dealt with, except for the small portion which would be the comments of Mr. Sterling as to the viability of somebody being able to order a special revising. I think if we take that into account in our notes, though, it would then solve all of the problems we were dealing with just before lunch.

I would suggest that that course of action be explored and that we can always come back, once we have dealt with the swearing in or vouching, or whatever system we are going to use. That would meet, I think, the debate that went on about two hours ago.

Mr. Chairman: The two people who had concerns about this earlier are not here at this moment: Mr. Matrundola and Mr. Sterling.

Mr. Campbell: I will restate that if they appear, or take them aside and see if that is appropriate. We can maybe raise it towards the end of today or tomorrow, depending on where we go.

Mr. Chairman: Let's table that section then for the time being and come back to it later.

Mr. Campbell: Fine. Thank you.

Mr. Chairman: Section 20.

Mr. Stewart: There is one proposed change, a very small one, to subsection 20(2). This particular subsection deals with complaints against names, that is, people see a name that they believe should not be on the list; the person is not an eligible voter. They must complain to the returning officer. The amendments simply adds four words, "signed by the complainant." That is, a copy of the complaint signed by the complainant must be sent to the person who is being objected to.

The point of putting this in is to allow the returning officer to make it clear at the time of the complaint that it cannot be anonymous, that if someone is complaining against you, you are entitled to know who it is. That is the sole purpose of it, and it also clarifies the right of the person who is objected to to have that information.

Mr. Chairman: There may be ulterior motives and this person could help shed light on it by knowing who it was.

Mr. Stewart: Yes.

Mr. Chairman: Okay. Section 20 is obviously okay with everyone. Section 21.

Mr. Campbell: On section 21, anything to do with revisions may, I point out, be changed if in fact we have a vouching system, just to keep that in mind.

Mr. Chairman: Yes. We will come back to that.

Mr. Campbell: Okay. Thank you.

Mr. Chairman: Section 22. Section 23.

Mr. Stewart: Again, there is a small change to section 23. The current provisions for additions to the list provide that an elector who wants to add a name may do so for a family member and for one other person and that a person who is not an elector may act for only one elector. This change, and the next couple of changes, would simply extend that same provision to corrections to the list.

This is suggested simply for consistency. It has been the policy of the act that people are not to come in with wholesale lists of large numbers of people. We do not know how these names have been generated, and so on.

Mr. Chairman: But you could come in and act for a child?

Mr. Stewart: Yes.

Mr. Chairman: A grandchild. Three children, four grandchildren, five brothers, six sisters, any number.

Mr. Stewart: Yes. I believe that is the way it is interpreted.

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Mr. Chairman: Not singular. You cannot just come in for one child. You can come in for your child, you can come in for your grandchild, you can come in for any number there, plus one other person.

Mr. Stewart: That is right.

Mr. Chairman: As it reads.

Mr. Stewart: Yes.

Mr. Chairman: Okay. So that is section 23. Section 24.

Mr. Stewart: Section 24, on top of page 14 on the handout, again would duplicate the same idea as applies to transfers.

Mr. Chairman: Okay. Section 25. Section 26.

Mr. Stewart: There is a housekeeping amendment to section 26.

Mr. Campbell: It does not say this here, and I tried to find out where it is. It has been alluded to as the use of a poll book. Section 25 is headed "Polling Lists," and this may be under voting procedures. I am just asking the question now because I do not want to hold up the process. I want to deal with the use of a polling book at some point.

Mr. Stewart: You mean the book in which information is entered by the officials.

Mr. Campbell: Yes.

Mr. Stewart: That will be somewhere under "Procedure at the Poll."

Mr. Campbell: Okay. I will leave it until then. Just give me a chance to find it. Just so you know, Mr. Chairman, I would like to raise it at that time.

Mr. Chairman: So we will come back to section 25 later?

Mr. Campbell: No, we will go ahead. When we get to procedures, I might point that out at that time. I just wanted to make sure that I was not missing it. Thank you.

Mr. Stewart: Section 26 is a housekeeping amendment. If you look at section 26 as it exists now—it might be clearer to look at page 21 of the workbook—you can see that subsection 1 starts out by looking as if it is listing the qualifications to be a candidate. It says you must be a Canadian citizen or other British subject and have resided in Ontario for the 12 months next preceding polling day.

You go on to subsection 2 and you find that clauses (b) and (c) are repealed. You go on to subsection 3 and you find that those sections were repealed as of July 1, 1986. That information is no longer necessary, so all of the relevant information is put together in subsection 1.

There is also the removal from this part of the act of the existing subsection 5, which states that, "No person who has been found guilty within eight years of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election."

We are not getting rid of that idea, but when we get on to section 97, the proposal is to put all of the disabilities and disqualifications caused by corrupt practices in one section and to make sure that they are consistent with each other.

Mr. Chairman: But it does not mean you have to pass the test or that you have to be able to read. As long as you can mark an X—

Mr. Stewart: Not at this stage.

Mr. Breaugh: That is part of the Liberal nominations meetings, is it not?

Mr. Campbell: No, no. Tory and New Democratic Party.

Mr. Chairman: Okay. Section 27.

Mr. Stewart: There is a small change to subsection 27(5). The

current act requires a deposit in cash or by cheque. The proposed wording would require a deposit in cash or by certified cheque or money order. There is a reason for that, which is probably apparent. In case anyone asked, Mr. Bailie informed me that I could say that there were three candidates in the last election who gave the chief election officer NSF cheques.

Mr. Campbell: Did they win? That is what I want to know.

Mr. Breaugh: Yes.

Mr. Campbell: Thank you, Mike.

Mr. Sola: Do they automatically disqualify them when it happens?

Mr. Chairman: What did you do with that?

Mr. Stewart: It was a simple mistake, and when the people were contacted they sent along a good cheque.

Mr. Chairman: They followed up with the real stuff.

Mr. Stewart: Yes.

Mr. Campbell: When was the last time the amount was reviewed?

Mr. Stewart: I would have to look at the past acts to check that, but I suspect it was a very long time ago.

Mr. Campbell: I am wondering if really that amount is—I know what some of the reasons are for even having a deposit in the first place—but I am just wondering if it really covers the kind of costs that you deal with or have to deal with in covering these kinds of things and if perhaps the amount should be reviewed.

Mr. Stewart: My understanding is that it is meant as some kind of a deterrent to nonserious candidates.

Mr. Campbell: That is my point. Is it really acting as a deterrent, on the other hand, and is some other figure appropriate? I think all three parties, for independence, face the question of having to raise that in any event, and the moot point is whether it is a difference between \$200 and \$500, let's say, that—I wonder if you could come back at some future time with a rationale as to why the amount is what it is.

Mr. Stewart: Now that I think about it, I realize that this was debated at the time of the revision of the 1984 act and there were widely divergent opinions among the legislators. Some said that it should be much higher to really deter the nonserious candidates. Others said, in this day and age, should we be deterring people at all? So it is really, I would say, a policy, a legislative compromise.

Mr. Chairman: It certainly would make my campaign a lot cheaper.

Mr. J. M. Johnson: Norm Sterling has two proposed changes, one to subsection 27(5) and one to subsection 27(6): to subsection 5, that the deposit should be \$2,000 and to subsection 6, that a candidate receive at least two per cent, rather than 10 per cent, of the valid ballots cast.

Mr. Chairman: Let's go back for a moment. Can we go back to the

certified cheque aspect? I am not opposed to it, but it just means that 900—how many candidates would we have in an election? We would have at least 390, plus a lot of other people. They would all have to go down and get it because of three people. I just wonder whether that is necessary.

Mr. Campbell: They have a money order choice.

Mr. Chairman: I know, but they have to go down to the post office to get it. I am just wondering whether it really is necessary, because of three out of some 400 people.

Mr. Stewart: From discussions with the chief election officer, I do not think he would feel that this is necessary. That is a good point you make. It is merely something that he thought prudent to recommend as an administrative measure. But if the disadvantage to the people involved is so much greater than the problem, perhaps it is not necessary to include it.

Mr. Breagh: One of the things that I find a little strange about this process is that I do not think that \$200 is much in the way of a deterrent. It does seem kind of silly when legitimate candidates, if I can put it that way, or people who are going to draw reasonable percentages of the popular vote are going to get this deposit back anyway. It seems to me to be kind of a leftover idea from another era.

I am not convinced that you should not just do away with the deposit notion altogether. I do not think that it serves any useful purpose. If there is a deterrent at work, it may be having to get your nomination form signed. I would think that the registration of political parties does more to sort that out than anything else. Is it time to do away with this notion of a deposit?

Mr. Chairman: Does that relate to what what you were talking about?

Mr. J. M. Johnson: I just presented his case. I have nothing else to say.

Mr. Breagh: Without debating that at length, is there any support for that notion? Okay.

Mr. Matrundola: On subsection 27(5), regarding the deposit, I believe that it would be good idea to increase the deposit dramatically, because what happens is that we have a lot of fringe candidates. I believe that people who want to run in a provincial election ought to be serious. My idea is that the deposit would be made payable to the chief election officer and then it would probably be turned into the association for the use of the association for the election of the candidate.

Mr. Chairman: What is the dramatic increase, as you see it, Mr. Matrundola?

Mr. Matrundola: I can see a couple of thousand dollars or a thousand dollars anyway, because this business of \$200—anybody can put up \$200 and then eventually may get it back and so forth. For example, in municipal elections, I do not think you have to put up anything, and that is why there are a lot of fringe candidates. I believe that this is serious business. People who run in an election are running to serve the public, and there should be some good faith deposited in it. I quite frankly feel that way.

Mr. Campbell: Pending one of the questions I had, I wonder if we

could table this for the time being until Mr. Bailie can be present and perhaps give us the benefit of his advice as to other debates that have dealt with this. I do not want to prolong the debate, whether it is \$2,500 or whatever. There are other interested members who might want to speak to the subject, so I would ask that we table it at this point and deal with it at a subsequent time when Mr. Bailie can be present.

1430

Mr. Chairman: Is there agreement?

Mr. Stewart: Yes.

Mr. Chairman: Okay. Subsection 27(10).

Mr. Stewart: Subsection 10. Currently the nomination paper may be filed with the returning officer during the seven days immediately preceding the close of nominations. The proposed wording would simply extend that period to 10 days and provide a longer period of time to get the nomination in. We just felt that would be helpful.

The only reason it is seven days now is that at the time the last act was passed, there were some suggestions of jiggling the dates for the period when nomination day would be. In the end, nomination day was moved to where it presently is. This should have been 10 days even at the time of the last act, but a change was not made at the last minute.

Mr. Chairman: Okay. Section 28. Section 29, notice of poll. Sections 30, 31, 32.

Mr. Campbell: Section 31. Could you just tell me if this section is different from the federal one in that once you have locked in your list, that is it? That is what happened to one of—it did not deal with death, but the removal of a candidate who resigned his nomination. I am just wondering if in all three acts, the Municipal Elections Act, this act and the other one, we may have something consistent when somebody dies after nominations close and you have a new election, so that it is consistent in all three.

Mr. Stewart: I will check that. Perhaps you could go on to another section, Mr. Chairman. I will just get the act and check that and report back to you.

Mr. Campbell: It is not urgent. At some point you could just inform me about it.

Mr. Stewart: Okay.

Mr. Chairman: We will go ahead with that, accept it the way it is and get a clarification later on. Section 32, scrutineers. Section 33, ballot paper. Section 34.

Mr. Breaugh: Would it be in section 34 where we do the provision of the names of the political parties or symbols for those of us who are interested in some variation on the current structure of the ballot?

Mr. Stewart: Yes, it would.

Mr. Breaugh: I would like to raise a couple of things in there then

that I have raised on previous occasions. I am impressed with the notion that has been made by a number of people now that for some people the ballot is not as straightforward as it could be.

It has to do mostly, I guess, with what we traditionally have done and the way we have put the names on the ballot. I think one of the things that at least in my mind is way overdue is to provide as much in the way of a clear indication of who this candidate is aligned with as is possible. I would advocate some leeway in doing that.

I think certainly the party name should be there, but I am impressed with the notion that has been brought forward by a number of people. I think Mr. Poirier was with us when we were discussing this on one other occasion and he was pointing out the number of people who actually cannot read and who are, to all intents and purposes, deprived of their franchise because they cannot understand what is on the ballot.

I do not think it is beyond our possibility to provide a ballot which removes almost any possibility of making a mistake or not voting because you cannot understand it. It seems to me that the ballot could be designed that clearly identifies the political party. If people are having difficulty with the names, a symbol is used in many other jurisdictions. I would like to see at least some provision that would allow us to try some of that.

Whether this would make a big difference or not I really cannot tell you, but I do believe that there is validity in the argument that some people are disfranchised because they are not able to understand clearly and succinctly the format that is used on the ballot. I do not think that was ever done intentionally. If there are things that we could do that would make the ballot clearer, we ought to try that.

The only real amendment that you are proposing now, though, is to put the party names on it, right?

Mr. Stewart: Actually there is no wording dealing with that, but the recommendation was that the committee consider the idea.

Mr. Chairman: But there is nothing clear on that.

Mr. Stewart: That is right, because it is not a matter where the chief election officer felt it was right to come and say that you should add political affiliation and here is what I propose.

Mr. J. M. Johnson: I fully support the recommendation that political affiliation should be on the ballot, whether by logo or name or both. I support whatever recommendation the committee agreed on. I feel it is really not being fair to the public not to make people knowledgeable about all aspects of the candidates they are voting for.

It is great to feel that it is the individual they vote for, and in some cases it is. If they feel that strongly about the individual, they will know the party he is with, but many people do not know which candidate represents which party, especially some of the seniors. At the last election there were some problems because I think the returning officer and the chief election officer did make it fairly open that there was ballots on the wall that indicated the party.

It is not a big deal, except it is on the ballot. When they go in to

mark it, they know they are voting for whichever party. The seniors' homes over the past several elections quite often would simply say, "Which is the Tory or which is the Grit?" They should have that right to know. It should not be anything secret. I fully support that concept.

Mr. Chairman: Okay. There are two things. One is maybe you could inform us whether anybody ever uses pictures. With computerization now, there may be some jurisdictions which have a picture of the candidate and it is something you might want to consider. I am not even suggesting it. I am just saying it is something you may want to consider.

The other thing I spoke to Mr. Bailie about the other day and which we may want to put in there as a clarification is that if you do put symbols or party labels on it, that still does not preclude the fact that the person might want to switch parties later on. The fact that he has been elected Jack Johnson, PC, does not preclude the fact that he may want to do something later on, either sit as an independent or whatever it might be—

Mr. J. M. Johnson: Independent PC.

Mr. Chairman: Yes. Do you know what I mean?

Mr. J. M. Johnson: Yes.

Mr. Chairman: The implication there is that you cannot change. That is what I wanted clarification on. It would be helpful if we had that in the act, if we decide to do this, provided of course the members want that.

Mr. Campbell: I agree wholeheartedly with the name and logo identification and such other things that would clearly identify the voter's choice.

The proviso I have, though, is that I would not want us to get into trouble with independents challenging the poll because their symbols were not as well recognized or some other such problem that you might deal with, that somebody may be a one-person independent party. I realize that there is a procedure for registering a party, but somebody who has a smaller or a localized or a regional party has identification and may challenge the challenge.

I realize it is far-fetched, but just keeping that in mind, the general principle of high identification is laudable and I think we should be moving in that direction.

Mr. Stewart: In speaking with Mr. Bailie, he indicated that what he would like to know is whether the committee is interested in this, that is, not just political affiliation but logos and colour perhaps. I do not know if colour was in his mind. If the committee is interested, he has plans to start studying by consulting with representatives of the Queen's Printer and so on to find out just what legal wording and what procedures have to be undertaken now so that such a thing can be done and it can be produced in a proper way and still have the ballots available on time.

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Mr. Matrundola: I definitely believe that the name of the party is a very good idea, so people can identify the candidate as well as the party. How would they identify the party? That should be up to the party. Say for the

Progressive Conservatives, they may want to put in the riding Progressive Conservative or PC, then there would be the NDP or New Democratic Party, and for the Liberals, the Liberal spelled out; and I suppose there should be the other parties.

Mr. Chairman: It should be uniform across the province.

Mr. Matrundola: It should be, yes. We should say whether it is going to be all initials or written out completely. I would go with it being written out completely, so it is right there; it is written out and that is that.

In view of the names, I suggest that the legal name of the candidate will be there rather than short names, abbreviations, nicknames or whatever the case may be. After all, these people are being elected to public office and their proper names should be there.

Mr. Breagh: That is not fair because there may well be people in a community who are—

Mr. Matrundola: —permitted to use other things anyway.

Mr. Breagh: Yes, but you see the problem with that, Gino, is there may well be people who are well known in the community under a name. It may not be their full legal name. Bud Germa was elected to this chamber for a long time—

Mr. Campbell: Or Bud Wildman. Use a current example.

Mr. Breagh: Or Bud Wildman. I think it would be really unfair to say that you have to use the legal name. If someone is widely known in the community by an abbreviated form of their name or perhaps by a nickname or something of that nature, I think it would be wrong to say you cannot use that name that you have been known by in this community for 20 years because we insist on your using your legal name.

Mr. Matrundola: In my opinion, it makes no difference for the simple reason that, for example, at birth my name was Luigi, which translated into Louis, and everybody calls me Gino. I simply changed it from Louis to Gino legally through a court order and that is it. My legal name is Gino and that is the end of it.

Mr. Breagh: That is fine.

Mr. Matrundola: It takes peanuts of dollars to do it. That is my legal name.

Also, I would like to say that, if possible, the whole name will be in bold capitals, say, both Gino and Matrundola, not one in small letters and one in capitals, whether it is Gino, whether it is John Sola or Jack Johnson or whatever the name may be. We must understand that sometimes when people go to vote, we should facilitate the voter exercising the right and the privilege of a good citizen to go and vote. Sometimes they forget their glasses. Sometimes elderly people do not see very well, whatever the case may be. We should make sure that once they get into the cubicle, they can easily identify and express the desire that they have.

Mr. Sola: I think this is a case of overkill. If we are going to add

the symbols and the name of the party, I think that identifies the person. People might know Bud Germa as belonging to a certain party. If you put his legal name down, they might not know who it is and they might not associate it with the party.

I think you get associated with a name through your actions and involvement in the community. If you change your name for your political career, you are also changing your chances at election because the name that you have used to create support in the community will be different than the name that you are using as a political candidate. I think that goes against all your efforts.

Mr. Chairman: In my own case, I have often used Herb Epp as opposed to Herbert A. Epp.

Mr. Campbell: You have the choice when you file your nomination papers how you want your name to appear on the ballot, and I think we should keep it. You are the one who knows.

Mr. Breagh: I had actually thought that the most reasonable way to do this is that the political parties could, for example, very simply register a logo or a symbol. For example, that would resolve some of the difficulties we have from time to time. When somebody loses a Liberal nomination and then runs as a Liberal, you would have a way of sorting out when you went to mark the ballot who was the official Liberal candidate in that riding.

Mr. Campbell: You keep saying that.

Mr. Breagh: The other thing that had occurred to me, though, is that there is not very much in the way of personal choice for a candidate here. As it now stands, I get to dictate what name will actually go on the ballot, whether it will be Mike or Michael or Michael J. or whatever like that. I rather like the notion that it is possible for the candidate to have some say in how the name is printed and whether he wants to.

I guess Pat Reid would be the latest example of a candidate who traditionally ran on the Liberal-Labour slate in his riding and then came and sat as a Liberal member here for many years, but there was a little bit of personal identification. It seems to me that we should be able to accommodate something like that.

I guess what I would be looking for would be to have the chief election officer do a little study into what is practical. I am mindful too that this could get a little stupid after a while and somebody may eventually want to work a little advertisement into the ballot. I think there should be some vetting process of how we do this.

Perhaps the simplest thing would be to have the political parties register something as being their symbol. If the local candidate wants to use that on the local ballot and it is practical to do so, then we find a way to do that. I think the colours would be the obvious thing to make the differences stand out clearly.

I would still like to retain, if we could, a little bit of right of the individual candidate to choose what goes on the ballot because it is, after all, your name that goes on the ballot. You are the one they spit at or cheer for, whatever it is they want to do.

In terms of the act itself, I would simply like to see this section of

the act loosened up a little bit so that there was the opportunity for the chief election officer to deal with the practical problems: "Do we give them 95 symbols to choose from or three? How do the colours get allocated? How do we do that?"

I think if there were simply provision made in this section that the actual design of the ballot was the responsibility of the chief election officer or something like that, that would give the latitude I am looking for to try some of these other things.

Mr. Campbell: I think we are still in a preliminary process. We are not near how we would present this to the House. I think if we can agree in the short term at least to a preliminary process of dealing with name, symbol, colour, if that is possible, or name, symbol, if that is possible, both official languages for the parties, then we can have it for further review to deal with changes.

I think you might run out of colours in some ridings. You may have independents using the traditional colour of the ballot, the buff colour that is out there, but leave it to the election officer. I think we should sort of reinforce that we at least want to deal with symbols and party names, party affiliations on the ballot, and then try to work out the other stuff. But I think we should have some sort of harder proposal to present to the House.

Mr. Chairman: What I would like to do, if we could, is leave this. I am going to hear Mr. Johnson and then leave this until tomorrow, if you want to come back tomorrow. If not, you may want to do a little more consulting with some of your colleagues and then come back and finish up this proposal before we submit it to the House. I am not quite sure exactly what we should do here, but you may want more time to think about this before we enshrine anything in our proposals.

Mr. J. M. Johnson: I was just going to say that in the event that we cannot agree on anything specific, could we use the federal ballot papers as an example to start with? They do have the—

Mr. Chairman: Do they have the party identified?

Mr. J. M. Johnson: I believe just the party label.

Mr. Campbell: And the logo.

Mr. J. M. Johnson: Maybe we could even have a look at some of their ballots.

Mr. Chairman: I was just going to say that.

Mr. J. M. Johnson: Could we?

Mr. Stewart: Yes, I am sure we can.

Mr. J. M. Johnson: We could start at that and then maybe the next turnaround go to colours. As far as the first name goes, my name is John, yet to everybody it is Jack. That is the way it appears on the ballot.

Mr. Chairman: Sure.

Mr. J. M. Johnson: When you go from Michael to Mike, it is just

shortening the name, which does not distract from it. But there are names that are quite substantially different, and that should be the individual candidate's preference.

Mr. Chairman: The only problem, which I guess Mr. Polsinelli mentioned and others have mentioned, is if somebody comes along whose name may be Michael or John and who uses John all the time, but because he wants to confuse the electorate with Jack Johnson, he deliberately uses the word "Jack" and then "Jack Johnson" because he is running as an independent and thereby trying to win or at least make—

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Mr. J. M. Johnson: For example, John Turner out in British Columbia.

Mr. Chairman: Yes, John Turner was a good one. Let's leave that for now and we will come back to it tomorrow. If we can finish it tomorrow, fine. In the meantime, Mr. Stewart will find out what the federal ballot is and maybe bring a sample of it here.

Mr. Stewart: I may be able to get a federal ballot by tomorrow.

Mr. Chairman: If you can, it would be great. If not, well—

Mr. J. M. Johnson: Sterling has several ballots.

Mr. Chairman: Whichever comes handy.

Mr. Chairman: Section 35? Section 36? Sections 37 and 38? Okay. We will go to section 39 then, and there are some proposals here.

Mr. Stewart: Section 39 deals with poll officials. The first part of the proposal is that the deadline for submitting names by candidates be changed. At present it must be done at least seven days before polling day; in the proposal it must be done by the 10th day before polling day. The reasons for this, as Mr. Bailie has explained before, are the increasing problems each election in cities, particularly in parts of Toronto, with getting enough poll officials and the strain that puts on the administration of the returning offices.

There is also a provision, in the proposed subsection 2, which is similar to the one that was discussed under enumerators, allowing the returning officer not to "appoint any person whom he does not believe to be capable of satisfactorily performing the duties of a poll official." Obviously some of the concerns that members had about this section under enumeration will also be relevant here.

The proposed subsection 3 allows the returning officer to begin appointing poll officials at any time he is informed by a candidate that the candidate is not going to nominate someone for a polling division or when the returning officer has not received enough names of poll officials by the deadline.

At the current time, under the present act, at least adhering to a strictly technical interpretation of it, the returning officer cannot do anything until seven days before polling day when he finds out whether the lists are submitted or not. It is the feeling, at least from recommendations of returning officers, that they need to be able to swing into action a bit more quickly.

Mr. Chairman: Any problems with that? Okay. Section 40.

Mr. Stewart: Sorry, on the top of page 19—

Mr. Chairman: Okay, subsection 39(2).

Mr. Stewart: That is a typo, actually. This would be a new subsection added to the end of section 39, that is, subsection 39(8). The proposed wording is: "At least two days before polling day, the returning officer shall post in his office a list containing the name and address of the deputy returning officer appointed for each polling division and shall permit interested persons to inspect it at any reasonable time."

This idea is borrowed from the federal statute. Some candidates have indicated that they would like to be able to know who the polling officials are going to be, or at least the deputy returning officer, ahead of time. It also frankly is meant as a kind of check on possible problems, in that if there is a situation of an inability to appoint enough poll officials, there will be a means at least by which it can come to the attention of the public and the candidates in that riding and the chief election officer.

Mr. Chairman: Why would you limit it to the DRO as opposed to including the clerk?

Mr. Stewart: There is no reason why the poll clerk could not be included as well. I think it was simply a decision to start the idea off simple and small. We are concerned that the returning officers will look upon this as an additional, unnecessary bureaucratic requirement, but if there is a feeling by members that poll clerks should be listed too, I think that would be fine.

Mr. Chairman: We may as well.

Mr. Campbell: If you are putting one name on the list, you might as well put two down. I think it might help with the Etobicoke-Lakeshore situation.

Mr. Breough: You would want some weasel clause, though, eh? I think the purpose of the exercise is to have this part of the administration work done and posted so everyone can know what it is, but you do not want to have the election contested because the posted list put up two days previously is not who actually showed up at the polling station, because Aunt Harriet died last night and we had to bring in her youngest daughter. We would have to have some provision that we post it, but that it is not—I do not know how you would do it.

Mr. Stewart: Where practical?

Mr. Breough: Yes, you would need some weasel words.

Mr. Campbell: I love writing law with you, Mike.

Mr. Breough: We can weasel out if we want to. That is the technical phrase.

Mr. Stewart: I think it is possible that the existing language would cover that, in that you are only posting the names of the people appointed at that specific time; at least, that is the way we tend to interpret it.

Mr. Chairman: Or put the possible name and address, whatever. If you feel that is sufficient, I concur with what Mr. Breaugh says, that you need some escape clause so that nobody is going to hold you to it. Why do you not think about that, Alan?

Mr. Stewart: All right.

Mr. Chairman: If you feel that is sufficient, I think members would accept that. If not, then bring in some kind of escape clause tomorrow.

Section 40 is next, then sections 41, 42, 43 and 44.

Mr. Breaugh: On section 41: You have down advance polls, for example, to those hours, do you?

Mr. Stewart: The advance poll hours are specified, I believe, in section 44 as being 11 a.m. until 8 p.m. That is covered in a different section.

Mr. Breaugh: Again, I am just looking for some latitude here where there might be an appropriate different set of hours. I take it that the chief election officer and in fact the local returning officer have the authority to alter the hours in cases of emergency or things of that nature. I do not think this is a big deal. I am just trying to encourage a little more flexibility in that.

Mr. Stewart: The advance poll provision actually, to be more specific, says the polls "shall be open from 11 a.m. to 8 p.m. or during such hours as are determined by the chief election officer." That possibility is there. If it has not been used as much as some members might think is appropriate in the past, at least it is a function of demand, as far as we are concerned. Perhaps we are missing the demand or not seeing it, but it does not seem to be there. At least it has not been made known.

Mr. Breaugh: I think for members who live in what might be laughingly called the commuter shed of Metropolitan Toronto now, general polling hours of 9 a.m. to 8 p.m. sound fine. But you have to realize that in some of our communities now, 30 to 40 per cent of the population will not be back in their homes until some time after 7:30 in the evening, so really what you are giving them is 30 minutes on election day to vote. There are huge numbers of them who do not vote simply because they physically cannot get back there.

We spend a lot of time and energy in this field trying to get people to vote in the advance polls, but it is a tough argument on the doorstep when you are asking them to give up part of their one day in the week when they can rake the yard to go and vote. I guess it is one of those things where if your advance polls could kind of stay open until 10 o'clock at night or something like that, you might solve the problem.

I think this is a very reasonable kind of thing to have. It certainly would seem to me to be the reasonable thing to do, except that I am impressed with the argument that there are a lot of people whose normal workday begins somewhere around 6:30 in the morning, and they do not return to their residence until 7:30 or 8 o'clock at night. They are, in effect, disfranchised. They are simply not there.

Mr. Cleary: It seems to be going that way, that a lot of the plants

and the nurses in the hospitals are on 12-hour shifts. They might not even get away from their jobs until eight o'clock at night.

Mr. Chairman: I always wondered why you did not start at eight o'clock rather than nine o'clock, because there are so many people going to work; they would stop by and vote at eight and get it over with and get to work at 8:15. I always wondered about that. I am not going to press it or anything of that nature, but I just wondered about it. It would mean that the people working there would be there more than 12 hours.

Mr. Stewart: Yes, that is the concern.

Mr. Chairman: They would have to pick up the ballot box and so forth and then everything goes dry for about three hours, from about 9:30 or 10 o'clock to about 12 o'clock and then they start speeding up again.

Mr. Stewart: Yes.

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Mr. J. M. Johnson: If there is a place we could encourage people to vote, it may be in the advance polls, as Mike has pointed out, if we are only talking about a small number of people who have to work during that day, yet it could be extremely beneficial to the large numbers who do not turn out to vote. On election day there are all kinds of reasons you cannot extend hours. One is that the candidates would not know whether they are elected or not that same day, which is extremely important. Anyway, the advance poll is one place where we could make a change, even just to try it for one election.

We are dealing with advance polls, which are really in section 44. Do you want to discuss it now or leave it? It is an added date for advance polls.

Mr. Chairman: I think we should discuss 44 in conjunction with 40, because the two are related.

Mr. J. M. Johnson: Clause 44(1)(b) states that advance polls will be open "at designated other locations on the Thursday and Saturday immediately preceding polling day," so you have three voting days all within one week.

I would like to see an added date. I spoke to the chief election officer and suggested the 12th day. He pointed out that it could create problems, but did agree that the ninth day would not be too bad. If we had at least an advance poll on the ninth day, which would be the Tuesday prior, it would then allow people the opportunity to vote over nine days rather than simply confine it all within five days.

I feel that for many people, for example, people going on vacation, if they leave on the Thursday they miss the advance polls Saturday and Monday and the election on Thursday. If they were away for a week, they would miss it. This way, it would take it out of the same time frame.

Mr. Chairman: You are saying on the ninth day before the election?

Mr. J. M. Johnson: In the office of the returning officer you can vote—

Mr. Chairman: But you want in addition to that.

Mr. J. M. Johnson: —on the 12th, the 10th, the ninth, the eighth

and sixth days preceding polling day. I am simply saying that there should be an extra date for the advance polls in all parts of the riding, not just the returning office.

Mr. Chairman: I see.

Mr. J. M. Johnson: It would only be on the ninth, plus the Thursday and Saturday. The reason for that is that in the rural part of the province it is fine to say you can go to the office of the returning officer to vote, but if that means a 50-mile trip, many people are not going to take it, but they might vote if those advance polls were open on that date.

Mr. Campbell: You are suggesting, if I can be clear, that you have one additional day for an advance poll?

Mr. J. M. Johnson: Yes.

Mr. Campbell: That being what day?

Mr. J. M. Johnson: I did indicate I would prefer the 12th, but the chief election officer pointed out that it is extremely dicey. Maybe Mr. Stewart could explain that.

Mr. Stewart: Yes. If I can talk for a second about the chief election officer's actual proposal under section 44, I think I have a rather tough sell, because that proposal runs counter to many of the comments and suggestions that have been made in this committee that as many opportunities should be made available as is possible to allow someone to vote. The recommendation of the chief election officer is in fact that two advance polls be removed; those being the poll in the returning office on the Tuesday two days before the election and the area advance poll on the Monday, which is three days before the election.

There are a couple of reasons for that. First, at some time in the last week before the election, in the view of the chief election officer advance polling has to end, because you have to be able to compile the lists of everyone who has voted in an advance poll and get those lists to the poll officials so they can mark the names off correctly and have them on election day.

Second, in some areas, and this is really a recommendation of the returning officers which the chief election officer thought we should relay to this committee, those activities in the last week, particularly the returning office advance poll on the Tuesday, interfere with the necessary tasks of getting ready for the election, being in preparation and ready to go on election day. It is as busy a time in the returning office as it is in the committee rooms in those last days.

As Mr. Johnson indicated, the chief election officer would be happy to, say, add another area advance poll on the Tuesday, the ninth day before the election, after taking one away there in the last week; so that you might feel the total number of opportunities for voting were not being diminished, perhaps add one on the ninth day before the election. If the members wish to change the nomination day and make it two or three or four days earlier, they could then add a number of advance poll days right at the beginning of the process.

Mr. Chairman: I can understand your concern that the election office

has to get ready for thousands and thousands of people out there to vote on election day and it should not spend all its time trying to accommodate the few who want to vote at advance polls. At the same time, you have to have some advance polls.

Mr. Stewart: Yes, that is right.

Mr. Matrundola: I say we ought to facilitate people voting. Because of the various denominations of people who live in Ontario, people of different creeds, culture, heritage, beliefs and so forth, I believe we should have one on Sunday. A lot of people who go to work may desire to vote on a Sunday, and they should be free to go and vote on a Sunday.

Mr. J. M. Johnson: They do.

Mr. Matrundola: No, on a Sunday. For my liking, I would not mind to have the election day on a Sunday, but that is not up to me to decide.

Mr. J. M. Johnson: That is a local option, too.

Mr. Matrundola: However, one of the advance polls should be designated on a Sunday because people have the time.

Mr. Breaugh: You guys are determined to make everybody work on a Sunday.

Mr. Matrundola: No, no. It is a good thing, I believe, because a lot of people do prefer to go to the polls on a Sunday. They have the time. I really would like to see that one of the advance polls would be made on a Sunday. I believe that is going to be good for everybody. We are trying to encourage people to go to vote.

Mr. Breaugh: I certainly do not agree with Sunday voting, but I would be prepared to look at some other variations on this thing. I frankly do not understand why the close of nominations is so late in the electoral period. I do not see any great difficulty or hardship imposed on anyone in saying that if you are going to be a candidate, the nomination is three or four weeks, even a week earlier than what it is.

Mr. McClelland: That is because they cannot find anybody to run against you in Oshawa.

Mr. Breaugh: Well, then, give up. Do the sensible thing. There is no difficulty in my mind, from a practical point of view, with moving the close of nominations ahead a bit. If that solves some problems, let me try to address some other things that I think are of concern.

I do not think voting at the returning office is such a great thing. I have been there when the voting was going on in the latter part of the election period. It seems to me that the election office itself is a very busy spot and does not need a polling station to louse it up even further. I would argue that those people who are working in that office have other things to do and it is not a good idea to have the public coming and going and adding to the confusion.

What I would like to see is something along the lines of what Mr. Johnson said. For example, I do not think it would be that difficult to find a library or school that is available in every part of every riding, where you

could regularly have advance polls almost every day, if you wanted to, at almost any hour. That would solve the problem of people having to travel long distances to get to the returning office. It would make a polling place available to them at reasonable hours.

I would like to see more advance polls held outside of the returning office. I might even mount the argument that it is not all that appropriate to have a polling station in the returning office. There is a bit of a conflict of interest there.

I would like to see us attempt some of those things. Again, I am looking for flexibility. I would like to see a local returning officer be authorized to strike more advance polls in more locations at different hours. I would like to see that person given enough flexibility that he could address local working conditions, for example, so he would have some knowledge of distance and what is an appropriate place to set up a polling station. If that simply means that we move the close of nominations ahead by three or four days, or even more, it seems to me we can do that without any great difficulty.

In looking at the calendar, for those ridings where you may not have a candidate ready, you need a couple of weeks to get a nomination meeting put together. Even the mechanics of finding a hall and doing all that stuff requires a little bit of lead time. More than three or four days would cause a little awkwardness, but as an incumbent you could probably move that ahead three or four weeks, no problem.

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Mr. Campbell: I think the reason for a returning office polling station is twofold. I know a number of candidates in the past have asked for that, because you do not have to run all over the city to find out where they are with the keys if they are inaccurate. The second reason is for polling personnel to vote when they pick up their kits. Basically, I think the service was extended to the general public rather than just to poll officials.

I think it is important to have one central location so that when you are taking people to the polls, as a candidate—perhaps you do not have to do that, Mr. Breaugh, but some others of us who run that way—

Mr. Breaugh: We have to stand outside and direct traffic.

Mr. Campbell: I see. Okay, as long as we have clarified that. The point remains that I think it is very important for the office that there is one central point everybody knows they can go to and they are not confused about a change of polls or anything; there is always that access.

Regarding your other point, I would support more widely spread polls, but I would keep the returning office right up to the last possible minute. I do not see why it is so impossible for names to be stroked off the list right up almost until the night before, if you have just one or two people hired to do that one thing. If you have to have area polls and you can catch that up, you have some breathing space, but you also have, really, almost an automatic updating.

In the advance poll in my riding, I think there were some 1,500 votes cast. If I remember correctly, a substantial number, almost half, were cast in the riding office—the returning office. Maybe it was central, maybe it was different from someone else's, but I support that.

People also get used to going to civic square or city hall to cast advance votes, so they get used to the idea of going to one central place to cast a vote at any time. I support, of course, flexible hours if we can work that out for advanced polls, and another advance poll, if that is possible. From two days to three; I do not know if that is as onerous on the staff.

Mr. Sterling: I hope that comment of Mr. Campbell was not a Freudian slip, when he confused the returning office with his riding office.

Mr. Campbell: Not my riding office.

Mr. Chairman: We can do all kinds of things to accommodate people to vote, but I think we have to keep in mind the fact that if people are not interested in voting, you can have it open on Sunday, you can have it open 24 hours a day—

Mr. Breough: Next time around, they are going to be interested.

Mr. Chairman: It is the issues out there. It is just like a municipal election. If you have a good race for mayor, then people are going to come out to vote. If you do not, you can keep the polls open 24 hours a day for seven days and they will not come out to vote.

I just want to ask one other question, Mr. Stewart. Are you convinced that you have differentiated between urban and rural in the new act as little as possible? In other words, where you have said, "This is for rural voters and this is for urban and this is for rural and this is for urban." Are you convinced you have broken down those boundaries to an absolute minimum?

Mr. Stewart: I am not sure I can say that. We have taken specific examples of discrepancies that did not appear to be justified and eliminated them.

Mr. Chairman: I keep seeing "urban" here and "rural" there and I am just wondering whether we can bring those together as much as possible without making that distinction all the time; that is what I am saying.

Mr. Stewart: Yes, I appreciate the point. We have not really taken it to the extent where every time there is a difference in treatment we say, "Let's try to eliminate that," but an attempt to satisfy ourselves at least that there is some reason for the discrepancy wherever it occurs. There may well be examples we have not caught that are no longer justified.

Mr. Chairman: I know some people are going out for breaks. I was thinking of going no later than 4:15 p.m. and maybe breaking off at four, then tomorrow morning having approximately an hour for members' services—some of the material we wanted for members' services to take all day is not available, so we will not be able to do a lot on members' services—and then hopefully finish this off tomorrow, to the point we can finish off—there may be some loose ends we cannot tie up tomorrow—and then leave it at that. We would sit tomorrow until about four o'clock with about an hour tomorrow for members' services, or whatever it takes.

Mr. J. M. Johnson: Is there anything urgent for members' services?

Mr. Chairman: Not a great deal.

Mr. J. M. Johnson: Could we not set it aside until the House comes back?

Mr. Chairman: I do not think there are any witnesses coming tomorrow. I can wait until Smirle Forsyth comes back and just doublecheck that. If that is the case, we could start first thing tomorrow morning on this bill and go from there.

Mr. Sterling: Was there not a request with regard to the satellite?

Mr. Chairman: There is one but that has been postponed now until November 5, I think it is. You are thinking of Rotel from Ottawa. That has been postponed until November.

Let's wait until Mr. Forsyth comes back. We will look at that, then go from there.

I want to keep that in mind because we have got to section 44 and we have 116 sections, something like that? I would like to go through the whole thing by four o'clock tomorrow.

Mr. Campbell: Just one note: I have to leave at about 3:25 p.m. tomorrow to catch my flight. That is inconsequential but I just wanted to let you know.

I think perhaps at this time, if you are ready, I could report on what I reported earlier when the two members—

Mr. Chairman: With the two members here, it would probably be an appropriate time to do that. Except Mr. Breaugh has left. Could you just wait a minute or two?

Mr. Campbell: Mr. Breaugh heard it the first time around and he was not part of the debate. I just thought I would run it through. I got a sort of nod because I was indicating to him that would be fine.

Mr. Chairman: He is more or less in—

Mr. Campbell: He is in agreement.

Mr. Chairman: Why do you not give us a few minutes in case it does go a particular way? Are the two members going to stay here for a while?

Mr. Campbell: That is the point. I just wanted to make sure we had everybody here so I do not have to do it another time.

Mr. Chairman: That was section 19. Go ahead. Go back to section 19.

Mr. Campbell: I have an answer for you. Do you want to do that now or wait?

Mr. Chairman: We will do it right now.

Mr. Campbell: As I said earlier, that combination of subsection 21(3) and the intent of this committee to deal with a process of swearing in or vouching I think would answer both Gino Matrundola's and Norm Sterling's question, with a proviso. I added with a proviso—

Mr. Sterling: What debate?

Mr. Campbell: Just before lunch when we were debating the fact of special enumeration and revision officers.

Both the concerns of Gino and Norm are covered in the revision officers being proposed in subsection 21(3) plus the stated intent of the committee to deal with swearing in or vouching or some such system for all ridings, with the proviso Mr. Sterling had that some direction be given to the returning officer in the electoral district to move on the complaints Mr. Sterling identified.

Mr. Bailie took that under advisement. Mr. Sheppard I dealt with as well to ascertain if in fact your concerns were covered, because we had left the debate and I wanted to make sure you had an answer that would legitimately cover what both of your concerns were on this matter.

I then asked Mr. Sheppard if he would look at a way of doing precisely what you say, that some direction is given once by interested parties who bring to the attention of the returning officer the fact that numbers of people have been left off the list.

1520

I think the revising officer proviso in subsection 21(3) will allow the mechanism to take place. What you were interested in was having that mechanism initiated so that those people could be added to the list and therefore meet your concerns. I suggested that to the committee in your absence right after lunch.

Mr. Sterling: What is the amendment that they are going to---

Mr. Campbell: Mr. Sheppard was going to look at it---

Mr. Chairman: Mr. Stewart.

Mr. Campbell: Sorry; Mr. Stewart--and consult on the basis of really working out the technical wording of directing, when it comes to the attention of the returning officer, when such action should take place or must take place. I am not sure of the legal wording; that is why I left them to consult.

Mr. Sterling: So he is working on something, is he?

Mr. Campbell: That is what I am suggesting for the committee. We did not take any action until both of you were here because you were both concerned with the issue.

Mr. Sterling: Would it be possible to deal with that deposit thing that was stood down while I was absent? I think you stood it down because I had mentioned something about it.

Mr. Campbell: Also we could get the debate from 1984 to 1986 in there somewhere. There was the other debate and we wanted to see that, as well. That was the other reason for standing it down, so it is tabled until that information is dealt with. Maybe we could deal with both of them together.

Mr. Sterling: What debate?

Mr. Campbell: The debate over a big deposit, no deposit and some of the reasons why it was set at \$200 rather than no figure or a \$2,000 figure, which I think was your proposal.

Mr. Sterling: I can tell you, it was set at \$200 in room 274 across here in 1984 before it was brought before the Legislature.

Mr. Campbell: I think maybe the debate that led up to that is important to this committee's deliberation. We have to bring some other things back and they were going to come back tomorrow, as well.

Mr. Chairman: Are you going to be here tomorrow, Mr. Sterling?

Mr. Sterling: That is the problem. I am out of here around 11:30 or 11:45 tomorrow.

Mr. Campbell: Maybe we could deal with that first thing tomorrow morning.

Mr. Sterling: My thoughts are that the deposit should be increased substantially and that the percentage should be dropped to about half of what it is.

Mr. Chairman: In order for them to—

Mr. Sterling: To regain their deposit. You would only need five per cent of the vote in order to regain your deposit.

Mr. Chairman: Rather than 15 per cent?

Mr. Sterling: Rather than 10 per cent.

Mr. Matrundola: Fifteen per cent of the vote?

Mr. Sterling: No, fifteen per cent deals with election expenses and the fact that you are paid a certain stipend. We are talking about a deposit in terms of—

Mr. Chairman: Getting your deposit back.

Mr. Sterling: In other words, I guess in most ridings, you would be talking about getting somewhere between 1,500 and 2,000 votes in order to get your deposit back, which I think is probably something that would be reasonable. If you are going to increase the deposit, to justify it you probably have to drop the percentage.

Mr. Matrundola: My point of view is to increase the deposit and perhaps leave the percentage of votes where it is or even increase it. I am very serious about having serious candidates, not fringe candidates running in an election.

Mr. Breaugh: You cannot do that.

Mr. Matrundola: Sure you can.

Mr. Breaugh: It is not your job to decide who is a serious candidate. It is not my job. It is not anybody's job. This is called a democracy.

Mr. Matrundola: It is a democracy. So then you can have anybody running?

Mr. Breaugh: Yes.

Mr. Matrundola: I happen not to agree with that because I believe

that we do have a sense of duty to the people we represent in the province, the public at large. That is my point of view.

Mr. Campbell: We are going to have to motion to table it until tomorrow morning, and I would prefer we not debate the issue at this time.

Mr. Chairman: I think we are going to get into all kinds of things here and I want to get through as quickly as possible, so let's go to section 44. That is where we finished off. Is everyone happy with section 44?

Mr. J. M. Johnson: I am happy if consideration is going to be given to an extra advance poll.

Mr. Campbell: That was the suggestion.

Mr. Chairman: Is there some new wording coming in?

Mr. Campbell: Yes.

Mr. Stewart: I am not quite sure what the committee has decided.

Mr. Chairman: I am not quite sure what the committee wants.

Mr. Campbell: I thought it was left that we were going to try to get an extra polling day and that the folks were going to come back. There was some reasoning for it, and I think we would deal with nominations and everything. They would look at it and come back to us tomorrow.

Mr. J. M. Johnson: One of the problems is that if the closing of nominations could be moved back two days, then there would not be any trouble in slating in an advance poll, for example, on the 12th day. But if we hold firm to closing the nominations on the 14th day, then the ninth day is the earliest there can be an advanced poll. Is that correct?

Mr. Stewart: If the closing of nominations is on—

Mr. J. M. Johnson: On the same day as they have been, the 14th day.

Mr. Stewart: Then the 12th day, the Saturday, is the first day an advance poll can be held, and that is only if the ballots are available.

Mr. J. M. Johnson: Yes, but I understand it could be a problem. Mr. Baillie suggested the 9th day would be a more reasonable date.

Mr. Stewart: The 9th day would be a day to be added as an area advance poll.

Mr. J. M. Johnson: Yes. I was only speaking of the area advance poll.

Mr. Chairman: So what we could do is to close the nominations on day 16—I am looking at day 16 as they are numbered here—and then move the area advance poll to day 9.

Mr. J. M. Johnson: To the 12th day.

Mr. Chairman: Well, day 9 here.

Mr. J. M. Johnson: No, 12 above—

Interjection: We could move it to day 9 without changing this at all.

Mr. J. M. Johnson: The Saturday. Move it over here?

Mr. Campbell: There was some doubt earlier about the question of moving nomination day and I would feel more comfortable if Mr. Bailie were dealing with this, if he were here tomorrow to answer those questions. There must be a good reason for it; it escapes me, though.

Mr. J. M. Johnson: I will leave it then that if the close of the nominations could be moved two days without creating any problems, give consideration to it, and have the first area advance poll on the 12th day. Other than that, then close the nominations on the 14th day and have the first regional advance poll on the 9th day.

Mr. Campbell: Right.

Mr. Chairman: Okay, we will come back to this tomorrow.

Mr. Stewart: I should warn you, Mr. Campbell, that Mr. Bailie will not be here tomorrow either, unless he accepts a last-minute call to fly back and be here early in the afternoon or something of that kind.

Mr. Chairman: I do not anticipate that will happen.

Mr. Campbell: We still have some room to manoeuvre on this thing.

Mr. Chairman: Right.

Mr. Campbell: I would just feel comfortable if you phoned him and got the information—I did not mean him personally, but at least some contact—as to why it is where it is.

Mr. Chairman: Okay. We have dealt with section 44. Section 45, section 46, section 47.

Mr. Campbell: With regard to subsection 47(1), which is before subsection 47(7), I had asked that at this time we could deal with the use of the poll book. It has always been particularly unnerving to me to go in—I think my name is a relatively simple one to spell, but a number of people in my voting career have asked: "How is that spelled? K? No? What?"

Rather than just crossing the name off the list and being done with it, rather than entering a whole bunch of information in a poll book, which I think is no longer relevant—this argument has been made by the city of Sudbury which got rid of it at the municipal level. It seems to have worked very well—the confusion of mayoralty and other candidates—whereas this is more a single-ballot situation.

1530

I am wondering if it is really time to get rid of this practice. It is particularly bad when it is towards the end of the polling time, when it is really heavy and lineups are long and everybody is waiting to vote and Aunt Mabel cannot spell "Czorsnyski." I wonder if it is really time that we just cross the name off the list and be done with it, to speed up the procedure.

Mr. Stewart: There would be some problems with that. The poll book

is a useful document. For one thing, I have found that no matter how careful you try to be, somehow either too many names or not enough names get crossed off when you are sitting there crossing them off. You often find poll officials and scrutineers are not quite sure whether a name has been crossed off in error, one too many or not enough. The one simple authoritative record of each name being written separately is something I at least think we find valuable to have.

Also, particularly if we have additions to the list on polling day, there are going to be new names that are going to be added. Rather than writing them on a list, at least from a chief election officer's point of view, I think we are quite satisfied with the poll record system, notwithstanding whatever inconveniences it may cause.

Mr. Campbell: The same arguments were made at the municipal level in exactly the same way. They seem to have survived with no more or no less challenges to polls and that sort of thing happening. I am saying that at this time a number have indicated to me, as well as its being my own personal observation, that it really bogs things down when you want to get people through. I think you are going to have the same argument that somebody's name written down or crossed off really does not make any difference: the records are the records. Again, the same arguments were made in the municipalities, and they seem to have survived very well for three elections at least; I think it is four, but I will stand at three. They have had no problem with it and they have thrown it out very, very easily.

Mr. Chairman: I do not know. I do not see that you are getting a lot of support here, Mr. Campbell, for that proposal. I see you have—

Interjection.

Mr. Chairman: Let's proceed.

Mr. Breagh: I do not have any problem with it. From my point of view, I would not mind having a look at just the administrative part of how the poll is conducted. It does seem to me that this is a rather antiquated system. What is the purpose in writing out the name at the poll? There is a voter identification number you can use. What is the purpose of it?

Mr. Chairman: To have an accurate record, obviously, because you might have James Brown and James R. Brown.

Mr. Breagh: But if you use a voter identification number, what is the purpose of writing the name out in full?

Mr. Stewart: I think there is more assurance that you compare the name you are writing out to the one on the list and make sure you have the right one, that the name is attached to the person who has actually come in or is on the list. It is a little more formal and complex, perhaps. It gives more assurance that the system is working regularly than something more simple, like just a number.

Mr. Breagh: I cannot see any conceivable advantage to it.

Mr. Stewart: It offers more assurance that the chain has worked completely, that the person on the list is the person who is being marked off, to whom a ballot has been given. Something that is simpler or easier to mistake, like a number, simply would not have as much assurance.

Mr. Breagh: I do not see the assurance. To tell you the truth, anybody could walk into a polling station with a name in his head that he has seen on a polling list and say, "My name is Joe Blow." What difference does it make that someone sits there and writes down "Joe Blow?" There is no more assurance to that, there is no more security in the system, there is no more accuracy in the system. To top it all off, the name could be on the list because four weeks earlier he was sitting in somebody else's kitchen and said: "Oh, yeah. I'm Joe Blow. I live here, too." I do not understand what the value of it is.

Mr. Stewart: I did not mean security in the sense of deterring fraudulent voters but of being able to make sure at the end of the day that you can identify actually which names have voted, that they can be the same on all lists with no doubts among the people who were there in the poll. There will not be a case that numbers have been interchanged somehow and different people have different understandings.

Mr. Breagh: You are losing me. I still do not see the value of it. You are basically saying it makes people who are working inside the polling station feel good.

Mr. Stewart: No, it allows them to make sure at the end of the day that they all agree on who has voted and who has not, without possibility of confusion.

Mr. Breagh: I do not see how it does.

Mr. Campbell: If you follow that along with the James Brown and the James L. Brown, if somebody walks in and says, "I am James Brown" and he is really James L. Brown, all you need to know is the numbers of people voting. You do not need to know who voted, you need to know that the numbers tally with the ballots, do you not?

Mr. Stewart: Yes, that is correct.

Mr. Campbell: So then what is the difference between knowing if James L. Brown or James Brown voted? That could be transposed and it would not matter. What you are looking for is the number, one through whatever it is, who voted so that the ballots match. It is not for any other reason, is it? You have just indicated that voter fraud is not part of the equation. Therefore, all you want to do is make sure the deputy returning officer and the poll clerk agree: the total number of ballots cast equal the number of people they have identified as having voted.

Mr. Stewart: And they are the same people; that is, it is not a case that you just have to make sure that 224 people have voted and it does not really matter which 224. You want to make sure that everyone can identify which of the entries on the voting lists have voted.

Mr. Matrundola: Since when has this practice of recording the names in a book been in existence? Was it done during the 1987 election and also during the 1985 election and before?

Mr. Stewart: It is not new. I can check, if you would like, to tell you exactly.

Mr. Matrundola: It is okay. What I am trying to say is that it was used in 1985, it was used in 1987 and it was probably used even at some point in time before.

Mr. Stewart: Yes; it is not new. It has been an established practice.

Mr. Matrundola: It was used in 1985 and probably before. You are sure of that?

Mr. Stewart: Yes, quite definitely.

Mr. Matrundola: There is a good point in that, because it is quite easy for someone to strike off a name and say, "Oh, I made a mistake." It will somehow avert the possibility of the poll clerks and the DROs—suppose they were all of one political affiliation. They are usually of different political affiliations, but I know of events when there were people of only one political affiliation. If they are all of the same stripe, they could very easily strike off a name, especially at advance polls when many times only one party might have people there, and then just put in a ballot.

Now what happens if you mark off Joe White and then Joe White comes in and says, "How come I am stricken off?" "Oh, we made a mistake." Then they strike off another one, but meanwhile that ballot is in. All you need is one ballot per poll to win the election. That is exactly what was allowed for in 1985.

This is a sort of deterrent if they are to write down the names. It is quite easy for someone to strike off the wrong names, but when you are writing it down in a book, I believe it is some kind of safeguard.

Mr. Stewart: I could not agree more. Perhaps I should have pointed out when Mr. Breagh and Mr. Campbell were here that if someone were to claim after an election that he did not vote and you go in and you find that in fact he is entered—let's say under this system that simply his number has been written down—that is an indication that some kind of fraudulent practice has occurred or some kind of error. If you have enough of them, or in fact if you have any of them that are found to be caused corruptly, you have a cause for a new election. So whatever additional tightness of procedure and formality you have, sort of like double-entry bookkeeping, whatever extra assurance of an accurate record is guaranteed by having not just a name or a number but both, is something I think is valuable.

Mr. Chairman: Okay, let's leave that. We will go on to section 48.

Mr. Stewart: At the end of section 47, there is a proposed addition.

Mr. Chairman: Sorry. Yes, the next part of that, subsection 47(7).

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Mr. Stewart: There is a proposed addition to the end of section 47, subsection 47(7): "Where an elector is specially requested so to do by a poll official, a candidate or a scrutineer, he shall make an affidavit in the prescribed form, before the deputy returning officer, instead of taking the prescribed oath and, if the elector refuses to make such an affidavit, he forfeits his right to vote."

This should not delay matters. The elector must take an oath, and an affidavit is simply a signed sworn declaration. On the existence of an affidavit: I do not know if it has any deterrent value, but if prosecution for an offence such as personation is ever required, it makes problems of proof easier, because you do not have to find the deputy returning officer and prove that the oath was administered correctly.

Mr. Chairman: Yes, okay. On section 48? 49? 50? 51?

Mr. Stewart: This is rather a major change replacing the whole section entitled Vouching with a section entitled Addition on Polling Day. This would make the current practice of vouching only in rural polling divisions apply in any poll division, and there would be substantial changes in the procedure. Perhaps I will go through it and read through it section by section.

On subsection 51(1): "On polling day, an elector whose name was omitted from the list may apply to the deputy returning officer to have his name added to the list."

On subsection 51(2): "An elector applying under subsection (1) shall (a) make an affidavit of eligibility in the prescribed form; and (b) produce documentary evidence of his identity and residence." This provision is one which was discussed in this committee earlier this week and there are different philosophies among the different jurisdictions as to what kind of evidence should be provided.

The wording that is suggested here is: "produce documentary evidence of his identity and residence." Some provinces provide that the elector shall produce two documents demonstrating his identity and residence. Some do not require any documentary evidence; they simply say that you must satisfy the deputy returning officer and how you do it is left unsaid. There is a lot of uncertainty as to which of these provisions is best. This is simply the one we decided upon, but members of the committee may prefer another one.

On subsection 51(3): "The deputy returning officer shall add a name to the list only upon being satisfied as to the applicant's identity, residence, and eligibility to vote, whereupon the deputy returning officer shall cause the applicant's name"—or number, I suppose—"to be added to the polling list and entered in the poll record with the words 'added, affidavit' written thereafter."

On subsection 51(4): "An applicant whose application is granted by the deputy returning officer is entitled to vote."

Mr. Chairman: Does anyone have any questions?

Mr. J. M. Johnson: I have a question on subsection 51(5): "This section does not apply at advance polls." Is that just for the election day?

Mr. Stewart: That is right. If you are at an advance poll, if you go to the returning office, you can be added to the list through revision and then vote at the same time. Perhaps it is a superfluous section in a sense, meant to indicate that this is a procedure for polling day only.

Mr. Chairman: We will go on to the next section, section 52.

Mr. Stewart: There are no other proposals until section 73 in this bill.

Mr. Chairman: Okay. On sections 52; 53; 54, cancelled ballot; 55, disabled electors; 56, interpreter at the poll; 57, counting the ballots; 58, same thing; and 59, statement of the poll.

Mr. Matrundola: I was wondering if there is an automatic recount of

the ballots when the numbers of votes are so close. Is there at any point in time an automatic recount, perhaps within 20 votes, 50 votes, 100 votes, whatever the case may be?

Mr. Chairman: They do not count the ballots. Automatically after a vote takes place, they look at the figures to make sure that the figures that have been submitted are accurate, in other words, 57 from this poll and 35 from that poll and so forth; that their totals are correct. Do they not do that, Mr. Stewart? They make sure they doublecheck the numbers.

Mr. Stewart: Yes, there is an official addition which is to ensure that everything balances.

Mr. Chairman: That is right. But they do not go over each ballot, unless there is a judicial recount.

Mr. Matrundola: No. What I have been trying to say is if, for example, A gets 19,921 votes, B gets 19,911 votes, if it is within 10 votes or 50 votes, whatever the case may be, would there be at any point in time an automatic recount or would one candidate have to challenge it and go through the process and so forth?

Mr. McClelland: Section 68.

Mr. Stewart: There is no provision for an automatic judicial recount. Some other jurisdictions have that, if you are within 100 votes or one per cent of the vote.

Mr. Matrundola: We have it under section 68. Perhaps I should wait until we reach section 68. Sorry.

Mr. Chairman: Okay, we will be there shortly. Sections 61, 62, 63, 64, 65, 66, 67 and 68? Do you want to proceed?

Mr. Matrundola: We had one during the last federal election—I believe it was York Centre or York North—where the votes were very close. My point is that if the vote is close, the party seeking the recount will have to file, will have to go through expenditures. He may win or lose but will be saddled with a lot of expense, whereas if there were an automatic recount, say, if it is within one vote per poll or whatever, then it should be done automatically, because my view is that we have to reflect the voters' wish in the community. If for any reason that could have been distorted, if it is within a certain number of votes, it should be the democratic process that there is automatically going to be a recount without saddling one candidate or the other with the onus of proving.

Say that between A and B there is a 50-vote difference. The winning candidate says: "Okay, that's fine with me." The losing candidate is within 50 votes and says: "Well, I want to have a recount." This person has to put up money, he has to give notice, he has to go to court. He will be challenged, there will be this, there will be that and so forth. It takes time. If instead, it being so close, there were an automatic recount, perhaps the whole problem would be resolved.

Mr. McClelland: It seems to me, having been involved in a similar situation for one other candidate, that there are a lot of safeguards built into the present mechanism. Moneys are posted and a judge has discretion under the act to either return funds or order that additional costs be borne by a

person for frivolous application. It seems to me that there is a responsibility that puts an onus on the person asking for a recount to do so with some prudence and some valid basis for proceeding. I think the deposit of \$200 is really insignificant, in terms of a serious candidate or a serious recount, if there is anything that might be at issue.

1550

Quite frankly, I think the whole 10 sections of the act that refer to a recount, in the process that is established, are pretty well balanced in terms of access for a recount and also in terms of the responsibilities that may flow from asking for and in fact receiving a recount. In short, I am pretty satisfied with sections 68 through 78. The whole recount process is well laid out in the act. I think it is balanced and makes a lot of sense.

Mr. Matrundola: But it does not provide any automatic recount. You have to apply for it and you have to go to an expense. That is what I am trying to say. It may very well be that in a riding where there is a 75-vote discrepancy, one candidate might say: "I am not going to put up with all this fuss. I am not going to put up the money. I am not going to go through the courts," and so forth, and had that person done it, the results would have been different.

Therefore, we are really preventing the true democratic reflection of the wish of the voters in that riding. That is what I am trying to say. I am saying that in any election that is won with a certain number of votes, there should be an automatic recount under the scrutiny of the chief election officer or a person appointed by the chief election officer to reflect the true wish of the community, the true wish of the riding, of the people who voted, because a mistake is human. Why should one have to go and spend so much money, time and effort in order to ascertain it?

Mr. Chairman: There seem to be some contradictions here. Earlier, some people were saying that people should have a greater deposit in order to show their seriousness.

Mr. Matrundola: Double the deposit; sure.

Mr. Chairman: Now we are saying that the province in a sense, through this legislation, should be responsible for having a recount.

Mr. Matrundola: Most definitely.

Mr. Chairman: If the person who is on the short end of things is serious about winning and really feels something has gone wrong, he in fact can apply for a recount. Nothing precludes him from doing it.

Mr. Matrundola: That is true, but you might spend \$10,000, \$15,000 or \$20,000 through the recount by the time you have lawyers fighting and doing—

Mr. Chairman: Oh, I see.

Mr. Matrundola: You also have to be able to give certain reasons and so forth why you want a recount. You cannot just go and apply and it will be granted, so there is a considerable amount of money and effort spent on it. The seriousness in getting started, the deposit to get started, yes, I think that should—maybe that money could be allocated for eventual recounts and so forth.

Mr. Chairman: Okay, you have made your point, Mr. Matrundola, and thank you for it. We will go on to section 73.

Mr. Stewart: This is the one change in the recount provision that the chief election officer is proposing. It is based on his experience of recounts at the provincial level. The current provision says, "The judge shall conduct the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer, and shall verify or correct the statements of the poll."

At provincial recounts, different procedures have been followed in the past, and it is up to the judge of course. The one that seemed to work the best, from the point of view of the chief election officer, worked like this: The scrutineers or agents of the parties would go over the ballots from the envelopes. They would decide among themselves which ones were definitely okay and which ones were disputed. They might say in this particular poll, "There's no doubt that there were 70 valid ballots cast for each of A, B and C, and we've got another seven ballots that someone is contesting and we'd like the judge to look at these seven ballots." That seems to be a good procedure.

At least one judge has taken the position or had the feeling that the wording of this section requires him to count each ballot personally, because he must "conduct the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer." If the judge considers that he has to put himself in the place of the deputy returning officer, he will then find himself bound to count each ballot.

That is fine for the chief election officer, but it can cause a lot of delay and additional costs for those persons who are there represented by legal counsel, so the proposed wording is as follows, "The judge shall supervise the recount of the ballots and shall verify or correct the statements of the poll where necessary." It is felt this will allow the judge to tailor the procedures to what he feels is necessary under the circumstances.

Mr. Chairman: The purpose, of course, for the recount is just to ascertain who actually won and by how much. It is not necessary that the judge has to touch each ballot and so forth. He has to satisfy himself that everything is according to proper rules and regulations.

Mr. Stewart: Yes.

Mr. Chairman: Next, sections 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84. Section 85.

Mr. Stewart: Subsection 85(2) currently says: "No person shall be allowed to inspect any ballot in the custody of the chief election officer except under an order of a judge of the Supreme Court." It is a matter of uncertainty whether this provision applies to the chief election officer himself or not. There are cases indicating as dicta that the provision did apply to the clerk of the crown in chancery, who was the ancient predecessor of the chief election officer. There are others who feel that the fact the ballots are in the custody of the chief election officer implies a right for him to inspect them.

Mr. Chairman: It sort of clarifies it.

Mr. Stewart: We really do not know, so our feeling was that we would propose this provision, which is adapted from the federal one. If the members

of the Legislature feel the chief election officer should be able to look at the ballots in order to investigate an allegation of a contravention, they could put this section in. If they do not feel he should be able to, they could not put it in and at least we would feel the legislative intent had been clarified.

Mr. Chairman: I am sure the Legislature never intended that the chief election officer could not look at ballots to ascertain whether something was missed or not. Sections 86, 87 and 88.

Mr. Stewart: The current section 88 provides that the chief election officer shall report after each election "whether or not...the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this act." That is a pretty skimpy reporting provision, if that is all there is, because essentially all it amounts to is saying, "Yes, a free and democratic election was held." That is all it amounts to.

It is proposed that something more elaborate in terms of a reporting mechanism should be included. The proposed wording would go like this, "(1) The chief election officer shall report to the Assembly through the Speaker whether or not in his opinion the conduct of each election was free or otherwise of offences or corrupt practices." That is essentially the same provision as at present.

Mr. Chairman: Maybe we should have it automatically referred to this committee.

Mr. Stewart: Certainly, the chief election officer is quite happy to accept whatever procedures the Legislature chooses.

Mr. Chairman: Does anybody have any objection to that? Maybe we should do it that way then. Okay?

Mr. Stewart: Would that mean the report was to—

Mr. Chairman: It automatically would come to the committee. The Speaker would table it and refer it to this committee.

Clerk of the Committee: If it is a statutory report, but this is not a statutory annual report.

Mr. Chairman: If you need clarification with the wording, would you check with the clerk later on?

Mr. Stewart: Yes.

"(2) The chief election officer may report to the Speaker of the Legislative Assembly on,

"(a) any matter that has arisen in connection with the administration of his office or this act which he considers should be brought to the attention of the Legislative Assembly; or

"(b) any amendments that are, in his opinion, desirable for the better administration of this act or any related act."

We have not forgotten that at an earlier stage Mr. Breaugh suggested

that in the end result, something a little more formal than this should be decided on; that is, that the chief election officer should be required to report within a specific period of time after the election and that there should be some obligation on the Legislature or this committee to make some kind of response within a period of time. But at the time we have been doing this wording, my understanding has been that the decision is you will decide on what time periods are appropriate more towards the end of this process, when you have an idea how long things like this take.

1600

Finally, "(3) The Speaker shall cause a report made under this section to be laid before the assembly if it is in session, or, if not, at the next ensuing session." I believe that in composing this wording, recourse has been had to similar provisions, such as the election finance provision, etc.

Mr. Chairman: Okay. Let's go on to section 89 and section 90.

Mr. Campbell: I have a question as to the rationale for setting the fine amount and/or the jail term. How did you come up with the number?

Mr. Stewart: I can say that it was really the Legislature that came up with the number as to what is the proper penalty. I am not sure that the chief election officer, as such, would have—

Mr. Campbell: Okay. I basically was looking. It looked fairly consistent. All of the fines and all of the penalties are the same throughout, as I can see in the act. I just wanted clarification whether it was legal practice or the assembly that made the decision. I have no arguments either way; it was just my interest. Thank you.

Mr. Stewart: I should note that in 1984, the last time this was reviewed, the fine was raised from \$1,000 to \$5,000. I guess that was an attempt to keep in line with inflation and so on.

Mr. Chairman: Okay; sections 89, 90, 91, 92, 93, 94, 95, 96 and 97.

Mr. Stewart: Currently, there are the two subsections of section 97 that you see. There is also subsection 26(5). There are some anomalies in the drafting of these sections. Essentially, in terms of doing something wrong in elections, there are two kinds of things you can do wrong. There are offences under the Election Act that are comparatively minor, and there are—

Mr. Chairman: Can I hold you up here just a moment, Mr. Stewart. Pardon me. Is this going to take some time? We are getting into some areas where I am just wondering whether we will have a lot of questions. If that is the case, I do not want to get half into it and then try to cut things off and come back tomorrow.

We are almost finished with going through it once and we want to come back tomorrow. What we are talking about here is somewhat repetitious of what we covered earlier, but we may get involved here. I do not want to go just halfway through and then finish it up tomorrow. Can members give me any direction with regard to that? Do you think this is going to hold us up for a while?

Mr. Campbell: Further to that, with the lateness of the hour, I am wondering if we could maybe have an indication of any other sections between

now and the end that have to be dealt with that could be dealt with in the short form and hold this debate over until tomorrow, because we still have the homeless proposal, as well as a few others that have been raised, and we might be able to focus in on those tomorrow. Perhaps we at least could complete the sections that nobody really has a problem with, because this seems to be the last one that is being proposed. Perhaps we could deal with those other ones and then tomorrow start fresh with this debate and move into the other ones. Perhaps I could suggest that.

Mr. Chairman: I think that is a good suggestion. Does anyone have any other questions regarding the other sections, before we get to section 116? I can just name them, sections 98, 99, 100 through to 116. It certainly does not preclude you from raising them tomorrow, but if there is information or something you need from Mr. Stewart and his colleagues, it would be a good time to get that.

Let's leave it at that. We will come back tomorrow at ten o'clock, deal with section 97 and then any other questions you may have. We will start again from number 1 and go through them.

I was going to forgo the session tomorrow on members' services and then I thought, well, we have Ajit Deshmukh, who is the director of finance, coming in tomorrow. Members have asked questions and one of the things to be discussed that we asked them to do was in regard to various allowances available to members. I just thought that if we were to forgo this tomorrow, then you would start on it early in the new session and you would not have all the information.

I thought what we would do is put him on for half an hour or no more than an hour tomorrow and deal with that section. If you have questions, he can come back with additional information. I am sure he will not be able to answer all your questions; you will want additional information. Then he will have time to get that information, so when you come back for the new session, you will be able to deal with it.

I think we will have sufficient time to deal with the other matters in this bill and still get out at a very reasonable time tomorrow afternoon, so with your concurrence, we will follow that line of thinking then. If there is no objection, we will adjourn this meeting at this time.

The committee adjourned at 4:07 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

REVIEW OF ELECTION LAWS AND PROCESS

THURSDAY, APRIL 13, 1989

Morning Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)

VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)

Breaugh, Michael J. (Oshawa NDP)

Hampton, Howard (Rainy River NDP)

Johnson, Jack (Wellington PC)

Matrundola, Gino (Willowdale L)

McClelland, Carman (Brampton North L)

Morin, Gilles E. (Carleton East L)

Sterling, Norman W. (Carleton PC)

Stoner, Norah (Durham West L)

Sullivan, Barbara (Halton Centre L)

Substitution:

Roberts, Marietta L. D. (Elgin L) for Mr. McClelland

Clerk: Forsyth, Smirle

Staff:

Yeager, Lewis, Research Officer, Legislative Research Service

Witnesses:

From the Office of the Assembly:

Deshmukh, Ajit, Director of Finance

From the Office of the Chief Election Officer:

Stewart, Alan, Special Adviser (Legal)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, April 13, 1989

The committee met at 10:21 a.m. in room 228.

MEMBERS' SERVICES

Mr. Chairman: We will first deal with members' services. We have the director of finance, Ajit Deshmukh, here with us this morning. We asked him to come back on a number of matters to give us some information. Ajit, maybe you can just bring us up to date on information you have and the decisions you would like this committee to make in order for you to be able to progress.

Mr. Deshmukh: I have had three requests from Smirle Forsyth in the past three weeks. The first one was to do with banking facilities in the Legislative Building. I have provided a copy of the papers from the Royal Bank. I have spoken to the Toronto Transit Commission and John Allen, director of the Province of Ontario Savings Office, to get some information on the subject. The information from the Royal Bank is attached.

Essentially, there are two or three items the committee may wish to consider before embarking on the banking facilities. The first one is to do with subsidization of the service per se. The cash counter machines permit cash withdrawals only to those who deal with the financial institutions on the Interac system, which is basically two institutions at the moment: the Canadian Imperial Bank of Commerce and the Royal Bank.

On the full-service machines which permit deposits and payments of bills: The banks may not be willing to install a full-service machine unless the assembly subsidizes part of it. That is what they indicated to me verbally, but that can change. There is not enough generation of revenue now in that area.

Mr. Chairman: If there are profits on the other side, do we get the profits then? In other words, if we have to subsidize in order to meet their needs, then of course if there are profits, they would share the profits with us?

Mr. Deshmukh: I did not ask that question.

Mr. J. M. Johnson: I guess he is saying no.

Mr. Breagh: Why do we not just nationalize the Royal Bank? It is about time we took one of them over.

Interjections.

Mr. Deshmukh: On space allocation: There is some consideration on space allocation. If the cash counter requires less space, it may be that if you have a cash counter full-service machine, it requires more space and a fully enclosed working area for security purposes. So that is a space consideration in this building.

There is a lot of documentation attached with this memo I sent to

Smirle. What I would suggest to the committee is that, if you wish, I will be happy to arrange for some of the officials of the banks to come and give you a better idea of the services.

Mr. Chairman: The kinds of services they might be prepared to provide and the kind of costs associated with it, the kind of hours and so forth?

Mr. Deshmukh: That is right.

Mr. Chairman: The committee may want to consider that. We could either have one or more than one.

Mr. Deshmukh: Yes, we could have more than one. I would suggest that we should ask our Province of Ontario Savings Office officials and give them an opportunity to comment on that one, too.

Mrs. Stoner: Are they on Interac?

Mr. Deshmukh: No, they are not on the system at all.

Mrs. Stoner: Forget it.

Mr. Chairman: Well, that might put them on it.

Mr. Campbell: That was what I was going to suggest. There are two issues here, as I think we debated before. One was having a bank machine in the Legislative Building itself, going over to the other buildings that have it. The problem, of course, is that there is no Interac in the one machine that is in our group of buildings, correct?

Perhaps we should start by ascertaining why they are not on the system. The automated teller machines cost a certain amount of money and putting them on Interac, once you have paid the capital cost, as I understand it, is not that much more. I think you would have to pay some security cost which is pooled by the other banks and so on.

That would be the first issue; I think we should start there and then determine where we are going to go, if I may suggest that.

Mr. Breaugh: When you spoke to them, did they ask any questions about how many users there might be or how much use would be made of it?

Mr. Deshmukh: No, I did not particularly provide any kind of information on users.

Mr. Breaugh: Did they seem interested in that?

Mr. Deshmukh: I think they are interested in it from a profile point of view. The individual who came and gave this information said there is not enough—we would have to negotiate that. I am pretty confident we would be able to get it.

Mr. Breaugh: The only comment I would make is that it would be pretty difficult and would be kind of useless to put one in from one of the banks or from POSO if it were not on the Interac system. Some people would use it for normal banking purposes but I would think the prime use would be for somebody in the building late at night or early in the morning who has run out

of cash and needs to get a few dollars. It would be primarily used as a withdrawal source for people who need smaller amounts of money. You can pay most of your utility bills and things like that at them. Would this system they are talking about have all of their normal banking services available?

Mr. Deshmukh: Yes, the Interac system actually has, I believe, 15 major banking institutions in this country, including trusts, on the system. They provide full service, including, if you wish, going on a cash deposit where you can deposit the various cheques you have. But the bank you deal with would have to be a part of that Interac system.

Mrs. Stoner: Most banks are on the Interac system. There is absolutely no point putting it in unless it is a full service system, because people are moving more and more to using their cards at off hours. More and more people are not able to get to banks during their exceptionally limited hours.

Did the bank indicate the kinds of dollars they were talking about in subsidizing the cost of the service?

Mr. Deshmukh: No. This is a discussion with our creditor, the bank, without really giving much—It was very difficult to give them what the total dollars would be or what kind of revenue they would generate from this particular area. It could be totally open to the public, for example.

Mrs. Stoner: I should think so.

Mr. Breagh: Are we at the stage where we are prepared to write a proposal and invite people to come forward? I think the logical step from here would be to simply write it up as we would want it, give them some indication of where the unit might be placed and the type. I think we would want the all-service facilities there and I think it should be made clear that we are not really interested in subsidizing. Then we could invite people, if they want to participate in that, through the major banks and POSO, to see whether anybody is interested in providing the service. Frankly, I think for the most part it may be more of a public relations thing than anything else for a major bank, but I still think they might be interested in it. I am a little ambivalent about whether we should be subsidizing this kind of thing. I am really a little hard pressed to figure that out.

1030

Mr. Sterling: Mr. Chairman, the only thing perhaps that we should consider is whether you should approach the Ministry of Government Services and see if it is considering a similar service across the street, perhaps in the Macdonald Block or whatever. For two reasons: first, it may leverage your negotiations, because of the very high number of people who are occupying those buildings; second, I hesitate at having a double standard around here in terms of the civil servants and the elected politicians as such, one having the service of the banking machine and the other not. I realize they have POSO over there, which acts to their advantage, I guess. If you want a cheque cashed, you can do that. It would be interesting to see if MGS or the government is interested in it. I think the offer should be made to join negotiations if in fact a better deal can be cut.

Mr. Deshmukh: My suggestion earlier on was that we should invite somebody from the Province of Ontario Savings Office to give this committee an idea as to what POSO is doing in the near future. I understand there is something in the works on this particular.

Mrs. Sullivan: I think we should be soliciting a proposal from the Interac banks. Presumably the lead bank for that situation is the Royal Bank of Canada. Plus Canada is another one that could be looked at. We should proceed fairly quickly, possibly involving POSO if that seems to be useful. I think we spend an awful lot of time talking about something we can simply take action on and then see what the proposals are like and put them before the board.

Mr. Chairman: Ask for the proposals from the different banks and go from there?

Mrs. Sullivan: Sure, forthwith.

Mr. Chairman: Including POSO.

Mrs. Stoner: Full-service Interac and open to the public.

Mr. Chairman: I think the general consensus is you want full service. Is that correct?

Mrs. Stoner: Absolutely. There is no point doing anything else.

Mr. Campbell: First, following on Mr. Sterling's comments, my understanding is that POSO is looking into the proposal itself, because it knows its ATM costs a fair amount of money. That is the automatic teller machine in the one building, and a lot of people they thought were going to use it are not using it because it is not on Interac. I think we should hear from them first to update us, and we may find they are almost ready to go that way. If they are not prepared to entertain it all, then bring in the other banks. I know there are some problems with the ATM, because there is a payback period on this thing. It is the amount of use you get, and a lot of people do not use it because it is not on Interac.

Mr. Chairman: I do not mean to correct you, but—

Mr. Campbell: Please do.

Mr. Chairman: —I understand that is not POSO, that is not the provincial bank; it is the civil service credit union, which is very separate from POSO, that has that machine. I understand POSO does not have this system at all.

Mr. Campbell: Okay. I stand corrected.

Mr. Chairman: With regard to that, Ajit, I think you have the kind of direction you need at this time. In the future, what we would like to do is have a presentation by POSO as well as by Interac and any other banks or whatever to give us a complete picture.

Mr. Breaugh: I wonder if the civil service credit union would also be interested in this. My credit union has one.

Mr. Campbell: Yes, so does mine.

Mr. Breaugh: It is on the Interac system. I think most of the credit unions around Ontario are. For them, I would think this would be a good move.

Mr. Chairman: Yes, I think that is a good suggestion.

Miss Roberts: I think if we are going to invite people to tender we should invite everybody who is on the Interac system; if that is what you are suggesting, a tendering or a proposal, some way we have to be sure it is made available to everyone as fairly as you can.

Mr. Chairman: Are we going to have to draft some regulations or something? It is just a general request to have them come in with some information and maybe appear before the committee so we have some understanding.

Mr. Deshmukh: Maybe we could word it as a proposal.

Mr. Chairman: It would not be a formal tendering ad, it would just be a—

Mr. Deshmukh: A proposal for interest ad.

Mr. Chairman: Yes.

Miss Roberts: Yes. If I might just continue, Mr. Chairman, are the only two things that you want full service and open to the public? I know nothing about these. Is there anything else we should put in that letter?

Mrs. Stoner: Such as 24-hour service?

Miss Roberts: Yes.

Mr. Campbell: We might run into security with the building. I think we have to listen to the proposals as to what is available. If it is outside the building, that is not a problem, but if we want it inside the building, those are the kinds of questions we should have answered when they come before us in whatever form this is going to take, but to answer Miss Roberts's question, you either have full service or you have cash only. Those are the two options, basically.

Mr. Deshmukh: I think Barbara Sullivan just touched upon an important point when she talked about the Plus network and Interac. Plus is a network that is international. To the best of my knowledge, I believe it is only the Royal Bank of Canada that is on Interac and Plus.

Mrs. Stoner: The Bank of Montreal multibranch banking is international, and that is part of Interac.

Mr. Chairman: I understand the Toronto-Dominion Bank is on it, too. Okay. Do you have enough there, Mr. Deshmukh?

Mr. Breagh: As far as I am concerned, we are not going to have to draw on the international money markets to meet my requests.

Miss Roberts: It depends on the member.

Mr. Breagh: You could probably handle it locally.

Mr. Campbell: We missed a certain trip to London, so that is okay, no problem.

Mr. Chairman: Okay, item 2.

Mr. Deshmukh: Global allowances?

Mr. Chairman: Yes. Global allowances for members.

Mr. Deshmukh: I would like to submit a two-page schedule that was prepared. I would like to just clarify a few things on that schedule.

The footnotes are important in trying to appreciate what the schedule says. The first footnote says, "1987-88 actual costs can be compared with 1988-89 costs." The reason for that is that 1987-88 may not have been representative, given the elections, so it may be worth while comparing those.

Note 2 talks about the effective dates. These are the effective dates for the rates that are given at that point. As you are aware, some of the rates have changed with the Board of Internal Economy actually approving some of it. Since the entire estimates are not approved, I have left it alone.

The third point down there is the implementation dates. Given the time I had to do some research on it, this is the best we could do in obtaining the implementation date. There has been difficulty in getting that kind of information for two reasons. One is that the genesis of that seems to be lost with discussions in the board and how it came about. It is very difficult to pin down some of the dates.

Mr. Chairman: I am sorry, what was that again?

Mr. Deshmukh: It is difficult to pin down the dates in some areas. That is why I have left implementation blank.

Mr. Chairman: When it has gone into effect?

Mr. Deshmukh: Yes. When it commenced.

Then the columns down there are self-explanatory. The first column, of course, is the actual cost. The average per member is based on a straight division of 130 members into it. Where there is a ceiling, it is reflected. Where there is no ceiling, it is left blank. There are certain items that are quantity ceilings, not dollar ceilings; for example, flags and lapel pins.

That is essentially what this schedule talks about. It has two pages down there. It is an attempt to take the estimate format on the left-hand side for members' sessional, members' travel, members' support and constituency expenses. No attempt was made to put in anything under per diems or committee travel, certainly that sort of expense, because they are really not allowances per se.

1040

Mr. Chairman: We are not going to be able to do a lot on this today, but do members have any questions or clarifications, new directions or instructions for Mr. Deshmukh?

Mr. Campbell: I think that with the understanding of how the system works is halfway through the labyrinth of working out a budgetary system, that really does not allow for the differences in the constituencies in Ontario. For example, the most glaring example that comes to mind is that I have very reasonable rent for my constituency office. I have, in fact, probably a fairly good cost-saving in that account. A Metropolitan Toronto member has to pay an

arm and a leg and two teeth to get a basement accommodation in the back alley somewhere.

Now, it seems to me that if I have a global allowance for my constituency operation, I should be able to adjust for things like staff travel. The Metro member, on the other hand, does not need any staff travel; mileage perhaps between Queen's Park and the constituency once in a while for a meeting, but I have to fly my staff on occasion. I do not go over budget on this, but I could probably use one or two other trips. I would be more than willing to take that out of my global allotment to have some extra staff travel and reflect the savings in my constituency office rent, janitorial service, parking and so on. I think the problem is that we are so tied to a very rigid system of saying, "This is your rent and that is it," rather than allowing the member some flexibility, depending where he or she comes from.

If you took things like lapel flags and lapel pins that everybody gets, along with your long distance telephone calls, the other list—and I have a list here of what assembly-paid expenses are: mailing, telephone, long distance, basic service, office machine rental, equipment repairs, furniture and equipment, office supplies. I have no argument with that, because I think that is something that every member gets. We all get the same chair, desk, equipment allotment. We all have a telephone, at least I hope we do, and we all pay some long distance charges, depending on where we are. I will not deal with the difference between a Metro member, who probably has not as many as I do.

If you are dealing with translation services, French-language services, a lot of members would not use it, but it is available to every member, as I understand it. But some of us have staff, and we have got it through Management Board of Cabinet now that staff—I think every caucus now has the availability to have its staff trained. It seems like a long process when you are trying to deal with these things, and probably everybody would use the framing budget, for example, in one year, the first year, and then the rest of it is surplus in the effect that it could be part of the global allowance for some members.

I think the point I am making is to try to make it more flexible so that if you do live in an area in the province where you reflect some savings, you are able to use those savings to make up for deficiencies that other members may not have. But when you are locked into a system like that, and those are just two examples I have used, it makes it very difficult for both sides, the Metro member and the non-Metro member, using the examples I have used, to try to effectively deal with their constituents and do the job they have been elected to do.

I am not asking for the travel to be lumped in, because I understand the difference. I think you already do this, treat some members differently in their travel from their constituency. Obviously, the Metro member does not need to fly and the outside member does. There is a mileage that everybody gets, and I appreciate that northern Ontario has a cent a kilometre more and all of that, but I think that there is a point to be made for those kinds of budget designs that can allow some flexibility within that budget.

I believe it is \$20,000 for the constituency operation, if I am correct, along with the staff salaries lumped in together in one fund. If somebody does need, for example, temporary help once in a while, he could use a saving from another area that he may not have used. That is what I am suggesting, that those be looked at and brought back to this committee with a different design.

On the second point, it seems that you are using the computer, but it is almost like you are using the computer on a manual system. If I phone up today and ask for my budget—well, let's not say today but let's say on March 1. I am coming to the end of my budget year and I am concerned. Even though you have a cutoff date well in advance of April 1, no one can tell me with any certainty at all either whether numbers are generated or how much I have left, even though you know such information, which should be on the computer, as what the lease is, what the general monetary things should be. I am wondering why it is not possible to generate that kind of information on a month-to-month basis.

I am wondering if this is not a little outside the global budget, but I think it still drives a lot of members to spending a lot of extra time trying to work manually through a system when you have it on your computer and we should be able to have an update that is a hard figure. I have run into trouble twice in two fiscal years because something that was supposed to be on was not and we assumed from your office that it was. I have had some difficulties. I am not the only member who has had that difficulty.

At some point when you say that it is the end of the month, that it is 30 days old, okay, I do not mind that, but when you cannot tell me or you are not sure whether those dollar amounts actually reflect what is in the budget, I am just concerned. That is why we have the computer accounting system, so that it can give you a fairly good update. If we are not using it correctly, that is fine, but I suspect there is a problem when two years in a row we followed all the rules. I would like it if those can be dealt with.

Mr. J. M. Johnson: I have three very brief general comments. I am basically quite satisfied with the finance branch. One is depositing members' cheques. Each month I receive my paycheque without any problem. It is deposited in my bank account at the provincial bank. The expense account cheque comes in the middle of the month. Every second time they deposit it in the bank and every second time they send it to my office, just to confuse me. Usually, when the House is not sitting and I am in my constituency, the cheque sits on my desk for a week or two weeks. I have requested on numerous occasions that they be consistent and send it to the bank. They have indicated they would and the next cheque will arrive in the office. I did become very formal and go to the top, and I think it is resolved, but would you please check on it and make damned sure that it goes to the bank?

The second thing is Hansard. Maybe we will address it later, but I just want to briefly say that I feel members should be able to order 10 copies, maybe 25 copies. We do not need them every time—one is usually quite sufficient—but there are occasions when you would like 10 or 25 copies and it should not be a big deal to be able to order them. I see that the parliamentary assistants and the ministers each receive 10 copies every day, so surely a private member should be able to have 10 or 25 copies on occasion. We could even have a number set that we would not exceed. I am not talking about 500 or 1,000, but once in a while you would like a few extra.

The third point, and I am not sure that we are addressing it now but I would like to bring it out, is mileage. The 26 cents per kilometre is absolutely asinine. The increases in the cost of cars, the depreciation—you take it to a repair shop and it is \$40 an hour. Insurance, gas—everything adds up. It was set by the Board of Internal Economy when I was on it—that was prior to 1985—and it has not been changed in the last four or five years. I realize this is not your responsibility, but I do feel this committee should address that aspect and recommend that the board take a look at it.

Mr. Chairman: As I understand it, with regard to the Hansard, there is a certain run that it has initially. If you order it early, I suppose they could just add 20 or 25 to that run, but if they have to have a separate run on it, of course, that complicates things.

Mr. J. M. Johnson: The problem we have encountered is that it takes two to four weeks when you order it. There is not much point in sending out a newspaper that is two weeks old. Hansard is of a similar nature. If it is not current, it is not of much value. I am not talking about a tremendous demand. If an individual member wants 20 copies, that is sure as hell not putting a strain on Hansard.

Mr. Chairman: No, it is just that they have to have a separate run.

Mr. J. M. Johnson: Maybe two ministers could miss their copies that week.

Mr. Chairman: They may not even need that. Let us say you make a speech in the House and you want some extra copies of that. There are a lot of members who would not necessarily want it that particular day.

Mr. J. M. Johnson: I am sure there are all kinds of parliamentary assistants who do not want 10 copies of Hansard every day.

Mr. Breaugh: What are they going to do with their time then, Jack?

Mr. Chairman: They have to go through each of them and check the spelling and make sure everything is accurate.

Mr. Breaugh: There are a couple of things. I have some problems with the finance branch around here from time to time. I cannot understand why we cannot get information from the finance branch on a daily basis. I am immensely frustrated by the fact that we can never quite figure out how much is left in the budget, and by the time we do figure it out, the end of the fiscal year has occurred and the money has gone somewhere else.

It simply bothers me that we have a very efficient branch, we have computers and we have all kinds of folks hard at work, and when I ask the logical question, "Is there any money left in the budget?" nobody can tell me whether there is or there is not. Usually what happens is that when I get pushy about it, they tell me, "No, there is no money left in that account." Then at the end of the month when they send me the computerized statement, lo and behold, there was, but I cannot get at it any more.

I am not sure what the problem is here. I appreciate that, for example, in the finance branch, one of the practical problems has been an explosion in budgets around here on several fronts for the last few years, and it has been difficult to kind of keep pace with that, but I do think we need to have a little review of this.

If it is on your computer, I do not understand why my computer cannot access that computer and tell me whether there is money left in my accounts or something that I ordered a month ago has been posted. I do not understand why that information is not available on a daily basis.

On the other side of the coin, I was not surprised, I guess, but taken aback somewhat when I found that someone who had worked for me on a part-time basis almost a year ago got a retroactive paycheck. I do not know who

authorized that. I do not think that person expected the money, and I did not expect him to get that money. I certainly did not expect it to come out of my budget. It just happened, and I do not know how that happened. There was not a great deal of money involved, but I am not quite sure that is the way to operate.

The other thing on the budget is that I would prefer to have a global budgeting system. If it would make things easier, I would be quite happy to have the finance department make some proposals to the committee which say, "Let's exempt these basic things because everybody has these costs. We can identify those. Those are fairly clear. We will run those in the same way as we always have, and the remainder of the budget then becomes something where you can move money from one account to another. Here is what we suggest is an approval process or some mechanism to run a check on that."

Actually, I would prefer that the finance department take the initiative in that regard because it is ultimately going to have to maintain the system, but I do think that some of this stuff is really pretty silly. The framing one is the one that comes up. I am sometimes beside myself when somebody calls me up and says, "You cannot have any more provincial pins." I am not sure that is doing a great service to the people of Ontario, to forbid me from purchasing, on one of my accounts, 20 more pins. I do not think that the province is going to rid itself of its deficit because I did not frame any pictures this year either. So I do not think that these are really worth bothering with.

But somehow I would like to see a proposal worked up from the finance department which categorizes the budgets into some kind of fixed traditional ways of doing things as we now do them: for rent, for telephone, for postage, for things like that, but then take the remainder of the budget and allow some flexibility in that, in whatever format that you would want.

The final salvo is that you continue to call me up and ask me whether the phone call I made last month was for business or pleasure. I do not remember what the phone call I made last month was about. I cannot tell you whether it was business or pleasure, but if I used one of the phones around here it was not pleasure.

I am always perplexed, when you call me up about a \$0.75 phone call, as to precisely how much money we just spent checking on a \$0.75 account. I do not know for sure but I will bet that there is not a civil servant here who spends a half hour of his time and uses his phone to call me about my phone call that did not cost a whole lot more than \$0.75. So if we were looking to be cost-efficient, so to speak, I do not think we are saving anybody any money by checking that out. So I just think that some of the practices around here are a little antiquated, to be polite about it, and could be reviewed.

The other comment that I would like to make is that I do think it would be useful for the board to take a look at all of these things: all of the budgets and the allowances and all of that, and establish a policy which indexes them or makes them an automatic thing, because there is some silliness in this process.

I do not really think the board of internal economy needs to sit down every year and analyse very carefully the mileage allowance. It seems to me there are 50,000 civil servants who are all doing that anyway and there is an adjustment there, and whatever is fair for them seems to me would be fair for the members as well. But the fact remains that the mileage allowance has not been changed in some time, nor have a number of other allowances in there. But

Rather than have us do that in some monumental way once a decade, why do we not just make that an automatic thing which happens; peg it to some civil service category that seems appropriate. It seems to me that would be a better thing to do. Enough.

Mrs. Sullivan: There are a couple of things that I wanted to mention. One of them is that there has been a lot of talk about the finance branch's computerized operations and so on so far this morning. I sat on the board for a little over a year and I will tell you that I was appalled at the unsophistication of the equipment that they had to work with. Frankly, the problems that members have had in receiving accurate information relate to the sophistication of the equipment, in my view, and it is just recently that the board has, indeed, approved new moneys for equipment for the finance branch. I believe that that should make a substantial difference, not only in the reporting but in the efficiencies in their operation. There were an awful lot of things that were done manually, strange as it may seem in this kind of a computer era.

One of the things that I have also noticed is that within the past six or eight months the new reporting forms—I cannot remember when they started, but it is fairly recently—are far more detailed and reflect more of not only expenses to date but also the commitments. That has been very useful. I think that there is room for improvement.

There are some areas where we should have, I think, fairly extensive discussions before we make recommendations about global allowances. There are some areas in particular: for example, the constituency accommodation. One of the things that has been done probably to death but is redone from time to time relates to the analysis of the available moneys in the budgets for constituency office operations and how they relate, say, to the Metropolitan Toronto member or the Ottawa member who has a high rent base in comparison to the northern member, by example, who may have to have two or three constituency offices. Some members have had more difficulty than others in coming to terms with the limits on rent. Indeed, the escalation factors, because of the requirements relating to the leasehold of the opting-out clause, if you like, and the one-year commitment frequently make it difficult for members to come in within that base.

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The other area, however, that is going to be more and more difficult for members, I think, is ensuring that their offices are able to meet standards for the disabled. There has been a survey prepared on that, but that is something we have to come to terms with. In some communities it may be easier than others in terms of the kinds of offices that are available.

I think that kind of unforeseeable expense, if lumped into a global allowance that is totally global, including office, by example, could really cause very serious problems. You may not want to have the same kind of escalator in my riding, where my constituency office is in a warehouse at ground level, that you might require in an urban area that is fancier than mine or that has fancier office buildings than mine, where elevators and all sorts of fancy doors exist. I am just mentioning a caution relating to constituency office operations and I think that is something we should look at.

Sterling mentioned earlier Queen's Park travel and other travel in the constituency for staff. I find that very difficult. My staff does a lot of work on my behalf in the riding. Indeed, if they charged back everything they

spent, even at 26 cents a kilometre, in terms of the work they are doing in attending meetings and so on, I would be substantially over my office operations budget. I think that is not atypical of members.

For just a rough total of these things other than the basic stuff, I think we are looking somewhere in the area of \$40 million for all members. But if you go on a global, it is far less easy to adjust for specific items that members discover are newly needed in their operations; that is one other caution.

We have, by example, found that with the new communications budget many members have had to subsidize their office rent. Others have been able to install fax machines. That was kind of a discretionary budget, but when you are looking at something that can be identified across the board as a problem for all members, it is frankly a lot easier in the process to see an increase that is specific for something that has been identified than negotiating an increase to the entire global. That is just a caution I put there. I think it is a lot easier to say, "We need more staff travel," than to say, "We need another million bucks for all members added to the global." That is the point I wanted to make.

Mr. Matrundola: I do share the concerns of the other members here. For example, yes, mileage is one problem with the expense of keeping a car today and the cost of gasoline and the distance. Travelling in the city, you run with three or four kilometres per litre with traffic, which is not unusual.

By the way, it is my experience that when you go to a garage, of course it logs \$58 and \$60 an hour for repairs. Amazingly enough, their hour is counted on a point basis. By the end of the day, in the eight hours of time, they probably have done 25 hours of work or something of that nature, if they had a good day and not too many problems. As you know, on repairs of cars, they go by a point system.

I would like to ask, however, since when has this business of 26 cents per kilometre never been upgraded? Since when have we had that?

Mr. Deshmukh: It is my understanding it has been there five years or more.

Mr. Matrundola: So it is about five years. You see, if you take an average of inflation, about five per cent per year, that probably already brings it up to somewhere around 35 cents. Everything else goes up, and if you bring it up by the compound inflation, like five years—I do understand also that the staff get 27 cents or 27.5 cents per kilometre, something thereabouts. It is not one heck of a lot of difference, but I do not see the reason. They pay the same amount for gasoline; they pay the same amount for repairs. We do the same; they do the same. It should be equal. I do not think we should be more and they should be less. In any event, the members do spend a lot more time travelling because of the many functions they have to attend.

Mr. Chairman: I think what we could do is have a motion from you after this asking the Board of Internal Economy to review the mileage allowance at this point. That might be in order.

Mr. Matrundola: Fine. I am quite willing to make the motion now.

Mr. Chairman: Okay, but why do you not finish your comments and then there may be some other motions?

Mr. Matrundola: Okay, fine. Thank you.

The other thing is that I do support the indemnity and global allowance. I see a number of items on page 1 here; except perhaps for item 216 for constituency newsletters—so many per constituency, or whatever the case is on the average, to the amount of constituents one has—but I believe the rest, like the office mail, long distance telephone, office supplies, translation, publication, French-language, framing, composite photos, parking, flags, pins and office equipment, was a global budget.

It may very well happen that one member may need more in French translation. Another may require more framing. Another may require more parking. For example, parking downtown, you very easily spend \$10. It runs about \$2.50 or \$3 per every half-hour or part thereof. We do have different needs and therefore we should have the flexibility for that.

Also, for the rental of the office, sometimes I have to make somersaults. I had to go to the landlord when I rented the offices and say: "Look, my friend, that is what I have. That is all they give me. Take it or leave it."

Mr. Chairman: Okay, I think the point is well made. I think what Mr. Deshmukh could do is come back with a recommendation or whatever where more flexibility could be built in for some of that funding; for instance, that point about parking, etc., which members cannot do now but which, if you are a parliamentary assistant, obviously you have available to you through the ministry. Of course, they have a lot of other things available.

One of the things members do not have, for instance, in Toronto is that they cannot go downtown on business and then have parking picked up for them. Most of the time it is probably cheaper to take a cab or take the subway.

Mr. Campbell: Which is not covered either.

Mr. Chairman: Which is not covered either. It might be helpful to incorporate some of those things in the global budget, where it would still come out of their budget but give them a little more flexibility.

Mr. Breagh: However, it should be pointed out that if they take a limousine and go by way of the airport, it is covered.

Mr. Campbell: Yes.

Mr. Breagh: The obvious answer is do not drive your car and park it downtown. Do not take a cab. Hire a limousine, go out to the airport, come back downtown, have it drop you off, and the Legislative Assembly will pay for that. It is quite a sensible system.

Mr. Matrundola: What about the time?

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Mr. Campbell: I am sorry one of the previous speakers is not here, because quite frankly I was not prepared to give my way of doing it, but if this keeps up I am prepared to recommend my way of doing it. First, in the north there are five remote ridings that are covered under different rules because they have different constituency offices. It has nothing to do with northern Ontario being different. Those ridings are bigger and they are

treated as such, through the Election Finances Act, the Election Act and every other way. They are also treated differently by this assembly. So I do not take those comments about northern Ontario.

Comments about extra costs in disability access: I made it a point to search for an office that was accessible, so I do not have a problem working out how much it would cost, because in my case it is zip, nothing, because it is already accessible, at street level. The point about the constituency is that, because of my location in my community, I should have the flexibility to work out the difference for other things.

What I really take issue with is mileage. I am not asking for extra staff mileage because I am in Sudbury and some other member is in Halton. I get only two trips for my staff, one staff person, if he has to go to Sudbury by air. It is one thing to ask them to take a cent out of their pocket for their automobile; it is another thing to ask them to pay \$382 for airfare, ground transportation, transfers and everything else to go to Sudbury because I need them there for a particular event.

I am not asking for 52 weeks a year; I am asking for one or two extra trips. It is pretty bad when in January, at the end of the time, we have to drive and all four of us have to drive together to make our mileage allotment work because we have run out of our other allotment, when in fact the saving I could take from my office expenses could be used for that purpose. It is awfully dangerous in January to be driving the highways in northern Ontario, with the weather conditions and so on. I think it is not really a straight thing to say, "Oh well, ask your staff to take 26 cents out of their pocket."

I just want to make that clear. I do not like the kind of implication that just because a southern Ontario or a Metro or an around-Metro member can drive around and do that—On the other hand, for Metro members it is pretty tough, too. They cannot drive to work and claim mileage, they cannot claim parking, they cannot claim cabs when they are on business. It seems to me we do not trust our members to say they are on business when they take a cab home. Perhaps an event was late or perhaps there is something else they could have. Again, I do not think the Metro members would ask for an arm and a leg for cab fare, like round trips out to the middle of wherever once or twice.

I have been on this job for a year and a half and I think I have a fairly clear idea of what my budgetary expenses are. At this point in time, I have been able to deal with them chapter and verse. I think I have a pretty good idea of how much it costs me to run the operation. I think I also have a clear idea that some people just do not want to change, and the reason they do not want to change is they keep giving excuses that they do not want to change.

I would ask that this committee ask the finance branch to come back with a plan of globalization that will in fact reflect the concerns some members have. I think it is far easier to deal with a \$20,000 allowance, whether it is a staff allowance or a global allowance for office, whatever. There are two or three methods we could look at. I think this committee should decide what we feel, all of us around the table, is a reasonable way of doing business, because I cannot for any reason justify to anybody that it costs me, as Mr. Breough said, some costs I think are ridiculous, and that I am being prevented from moving costs around from one to another. We are not talking about a lot of money, but it is substantial when you figure that you have to pay airfare to Sudbury rather than drive a couple of kilometres more down the road. There is a substantial difference.

Mr. Chairman: Can I have a motion? You have expressed various thoughts. We could have a motion on the mileage or we could have a double-barrelled motion.

Mr. Breough: Could I put two motions to you? I would like to ask the Board of Internal Economy to review members' allowances, all of them, on an annual basis. They may choose to pick some civil service category and peg it to that. That would be the first motion. That would cover mileage, things of that nature; but allowances paid to members, to review that angle. That would be my first motion.

The second one, in case you are all excited, is about the global budget.

Mr. Chairman: To review all the aspects of the—

Mr. Breough: All the members' allowances and expenses on an annual basis.

Mr. Chairman: Does that include the mileage?

Mr. Breough: Yes.

Mr. Chairman: Is everybody in favour of that?

Mr. Matrundola: There is one thing on this mileage: It is five or six years that it has not been upgraded.

Mr. Campbell: That is why they are asking for the review.

Mr. Breough: That is what I am asking.

Mr. Matrundola: Very well. Thank you.

Mr. Chairman: So that is going to come back—

Mr. Deshmukh: I have one comment, and that is that the mileage in the government has also not increased in the past five or six years, to the best of my knowledge.

Mr. Campbell: What is the mileage for staff?

Mr. Deshmukh: It is 27.5 cents.

Mr. Campbell: And in northern Ontario it is 28.5 cents?

Mr. Deshmukh: Something like that.

Mr. Campbell: With us, it is 26 and 27 cents. I think the point is that it should be at least equal to our staff.

Motion agreed to.

Mr. Chairman: And your other motion?

Mr. Breough: I would like to receive a proposal from the finance branch on providing more flexibility in the budgets for both the Queen's Park office and the constituency office. I would like to leave it that broad, because I would like to see what initiatives, from their point of view, are

practical and workable. You have heard the members ask for a little more flexibility in some of the accounts. I would like to see the initiative taken by the finance branch, just so we do not cause a whole lot of problems. In other words, what could we do that would be most practical from your point of view and meet some of the concerns you heard here this morning?

Mr. Deshmukh: Just to answer your question on the telephone, I have been in my position for the past four months. They have made a point to send the telephone bills with a covering letter indicating, "If there are any personal calls, please call back." To the best of my knowledge, since I have been on the board, we have not asked the members for anything other than that.

Mr. Breough: You did on Monday afternoon.

Mr. Chairman: I might say that the treatment I have received from the finance branch has been excellent. I think they do a very fine job, but I think there are these individual concerns members have; if you could address those, that would go a long way to alleviating some of the problems.

Mr. J. M. Johnson: Just a brief supplementary on the telephone. Every month when I send in for the rent for the apartment, I forget to put in the telephone bill. It is always \$14.85 or whatever. It never changes. I use a credit card for any long-distance calls. Any time I forget, I get a memo: "Please send in your telephone bill." It is the same when they pay it, whether it is through a credit card or not. What difference does it make if it is \$14.85 and I have forgotten to charge it? Anyway, it is a small thing.

Miss Roberts: On the motion that has been put forward by Mr. Breough: I am not sure exactly what he is saying. He wants the finance branch to come back with a proposal about what can be done. I do not know if a proposal is for certain areas where they believe there might be movement and flexibility available. My concern is that when these global budgets, formula, nonformula and a few other things, were done, they were done for specific reasons which we have not discussed in depth today: political reasons that everyone is, I am sure, aware of.

I would like to maybe amend Mr. Breough's motion, or maybe if he would agree, that they come back with not just a proposal, but review areas where there may be flexibility created. In that way, it will give us something to look at and discuss maybe the political reasons behind making those changes, and it will not ask them to make those political decisions, if that is appropriate. I do not know.

Mr. Chairman: So what you are really looking for is some options.

Miss Roberts: That is right.

Mr. Chairman: As opposed to a specific proposal or a specific recommendation.

Mr. Breough: The reason I suggested that is because on one other occasion Mr. Morin brought forward a little problem. We sought the advice from the finance department. They had a simple, straightforward way to respond to it that was so sensible and so workable that it has all the members confused but it actually solves the problem.

Miss Roberts: If I might amend that motion, or if Mr. Breough agrees---

Mr. Breaugh: No, that is fine.

Mr. Chairman: He agrees that he will incorporate that flexibility in his motion.

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Miss Roberts: Thank you.

Mr. Breaugh: That is how flexible I am.

Miss Roberts: That is the first time you and I have agreed on anything today.

Mr. Chairman: Very short, Mr. Matrundola.

Mr. Matrundola: Very short.

Mr. Chairman: No more than 30 seconds.

Mr. Matrundola: I do not know whether this is part of this or not, but on the meal allowance, I do not know who is entitled to it, perhaps only in committees or whatever—I do not really know—but I do find that for people from out of town who have to stay overnight in Toronto, \$27 per day for meal allowance is awfully skimpy considering breakfast, lunch and dinner.

Mr. Sterling: I used to weigh 250 pounds.

Mr. Campbell: Mr. Sterling used to be 250 pounds when he got here. See what happens on the meal allowance? It is healthy.

Mr. Chairman: Mr. Matrundola, the flexibility is there right now. All you have to do is have your receipts and you can claim more.

Mr. Breaugh: Can I say one quick thing?

Mr. Chairman: Yes.

Mr. Breaugh: This is another of the quaint forms that are around this place. Could I ask you to take a look at how these expense accounts are done? It seems to me this is about the silliest, most old-fashioned method of providing payment to members that I have seen in some time. I think maybe if you took a look at how these forms are put together, filled out and the amount of checking and doublechecking to arrive at the same amounts every day, there must be a better way to do it than that.

Mr. Chairman: What do you have in mind, because this has the—

Mr. Breaugh: For example, the clerk of the committee roughly knows who is in attendance here. We roughly know how many travelling days they normally would put in for. Would it not be a simpler matter to have the clerk of the committee simply report, "These members were here, this is what they are entitled to, and if they want to put in additional expenses they can," but pay them automatically?

I find the current system very confusing. I do not get much information on what the cheque was made out for. It is on the cheque but you have to kind of sort that out. I am not quite sure why the timing is what it is. Some of

the cheques come quickly; some do not. I know there was a change made to try to expedite this, but it seems to be a little more confusing, rather than resolving the problem. I think if you took a look at this, you might have some ideas on how we could go about this a little better.

Mr. Chairman: I think, Mr. Breaugh, we are still going to have to have individuals fill out their forms. You might be able to—

Mr. Breaugh: I do not have any problem with somebody putting in, for example, his airfare, which I do not have, but I think that the basic costs of attendance at committee and two travelling days would be the norm and that the clerk of the committee could do that. Perhaps members who had additional expenditures—for example, I do not charge travelling expenditures to committees, because I can never figure it out. I am coming to the office anyway. I put in my mileage that way. I do not see why I would fill it out and charge it to a committee. I do not see any sense to that, but other members do have airfare and additional expenditures.

If there was a basic amount allocated on a per diem basis to committees, fine, and if they have additional expenses let them put a claim form forward, but I think the system could be simplified immensely.

Mr. Chairman: Okay, he can look at it and we will go from there.

We have two motions, then, that have been approved by the committee. Thank you very much for coming. Do you have any comments? I think you have some direction there. Some time after the House comes back and the committee is reconstituted, we will have you back with all the right answers.

Mr. Deshmukh: Thank you very much.

Mr. Chairman: Thank you for coming.

REVIEW OF ELECTION LAWS AND PROCESS (continued)

Mr. Chairman: The next item is to resume our discussion on the Election Act and on the report, so let's do that. I know some members want to get away. I am sorry we are a little later than I originally anticipated, but this other matter was important as well.

Mr. Campbell: Could I suggest the definition of "residence," which we were looking at? We did not have a chance to deal with the issue yesterday. We were waiting for an appropriate time and we never did get to it. I wonder if we could start by dealing with that, while we are fresh, since we did not even touch it yesterday, and then deal with the rest of the matters.

Mr. Sterling: I have a problem. I have 10 minutes.

Mr. Campbell: I appreciate that; I withdraw.

Mr. Chairman: Mr. Sterling wants to get away. There is an item you want to discuss.

Mr. Campbell: That is the deposits. Okay; I will take that.

Mr. Sterling: There is no recommendation in the report with regard to subsections 27(5) and 27(6). I do not know how long ago these particular

sections were dealt with in terms of reform. The deposit now is \$200. If you receive 10 per cent of the ballots that are cast at the election, you have your cash refunded, or I guess the cheque is handed back; I am not sure exactly how it happens. Usually campaign people take care of that, the campaign manager or your chief financial officer.

It is my feeling that over a number of elections that have occurred recently both at the provincial level and at the federal level, there has been an increasing number of people who are utilizing the election process in order to put forward an issue or issues they deem very important to themselves. Really, their primary objective is to seek the platform rather than to run for Parliament or for the provincial parliament. I think that in the past it could be tolerated. The number of people who were involved in this was relatively small and it was seen as more of a diversion.

I think there is a real danger at this stage of our history in the political process that the process is becoming disrupted to a larger degree than is acceptable. The candidates of this ilk demand the same platforms as what I would call legitimate candidates for office. Therefore, to bring the process back more into line in an election for members of the Legislature, for people who legitimately want to become members of the Legislature, who are going to mount a substantial campaign and who are really going to go door to door and do all the things that are necessary to do that, I do not think it is unreasonable to ask for a deposit of \$2,000.

Having said that, I would say that in my estimation the average size of a riding probably would have some 50,000 voters. It would have somewhere around 30,000 to 35,000 votes cast if we take the average percentages that were cast in the last couple of elections or the last three elections. We should drop the requirement that a candidate must receive 10 per cent down to 5 per cent, so that if in fact you receive somewhere in the neighbourhood of 1,200 to 1,500 votes, you would get your \$2,000 back.

I know you can make great speeches about, "This is a democracy and people have the right to run," and all that kind of thing. That is going to be a very tempting political speech for each and every member of this committee to give, but I do think the process now is being subverted to some degree by the fact that we are having the process thrown into turmoil.

We had a person, for instance, in Mr. Polsinelli's riding last time who had a name that was very close to the particular name of his party. No doubt there was some confusion at the time. I think \$2,000 is not very much these days if you are really genuinely interested in becoming a member of this Legislature. In recognition that we have identified that candidates are allowed to spend up to \$45,000 to become elected to this place, \$2,000 seems like a very minor amount of money to put up. I think it would discourage people who are not genuinely interested in being elected, but are subverting the process in order to put forward their pet peeves.

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Mr. Matrondola: I share your idea of the \$2,000. As a matter of fact, I have been advocating this for years, because I believe if serious candidates are out there to seek election to represent the public, they should put some money up for good faith. I do not believe, in this business, that anyone can just run for the sake of running to distort, or whatever the case may be. A deposit should be given.

As a matter of fact, I am quite of the idea that deposits should go to the Commission on Election Finances to defray the cost of the election. I do not really care about getting it back. If somebody is seriously running, he should be able to put us some good faith money.

I do not happen to agree with reducing it to five per cent. As a matter of fact, it may need an increase to 15 per cent because I believe that for serious candidates, people who are serious enough that they want to do the work, want to go door to door, want to serve, want the votes out there, it is up to the individual to be able to collect enough support. Therefore, I believe in a good deposit and a good percentage of the voters. They should get at least a minimum. Leave it at 10 per cent or whatever it is. That is my point of view.

Mr. Chairman: One of the problems with that is the fact that all three major parties want to field a candidate in each riding in each election, and the candidates do not always end up getting as many votes—up to 15 per cent, for instance—where they get the government subsidy. This means that not only do they not get the subsidy, but they would also lose their deposits if you had a \$2,000 deposit and 15 per cent. It is kind of double jeopardy. They would not get their deposits back and they also would not get their subsidies from the government, which makes it very difficult then for the party to field all its candidates.

I am talking about serious candidates. Of course, that reflects provincially on other ridings because they have not been able to put all their candidates in the field. That is the reasoning behind it.

Mr. Matrundola: I appreciate that point, but I also believe that if the candidate is serious enough and goes out and does a good job, he will get the 10 per cent or 15 per cent of the vote, if the reasons are valid and so forth of course. If they are not valid, well, then they are not valid. If the public does not believe in it and does not buy it, there is nothing we can do about it.

Mr. J. M. Johnson: I just asked Mr. Stewart if he had a list of the deposits that are required by the other provinces. Five have \$200, including Canada, five have \$100 and two have no deposits.

Mr. Matrundola: Very bad.

Mr. Breaugh: I find it awfully tempting to support Mr. Sterling this morning.

Mr. Chairman: But.

Mr. Breaugh: It would be such an easy thing for me to accept his arguments, because in the last provincial election the Progressive Conservatives parachuted a candidate into my riding. He did not go door to door. He did not canvass regularly. He did not work very hard at all. They went through the motions. I believe they almost lost their deposit. So it would be awfully tempting for me to say this morning that in that election—

Mr. Sterling: Then do that.

Mr. Breaugh: —the Progressive Conservative Party fielded a

frivolous candidate who was not serious and should have been weeded out of the process, but I am going to decline that opportunity.

Mr. Sterling: Surprise.

Mrs. Sullivan: I am about to give the speech Mr. Sterling suggested would be an easy speech for most of us. I want to point out a couple of things. First of all, there are more than three parties that are registered in this province. Many of them have a point of view and a philosophy to put before the people that may not bring adequate support for even the 10 per cent of the valid ballots cast, but none the less they are legitimate political parties. They have been registered, they have gone through the process of registration and the candidates that they field are indeed legitimate candidates in many cases. Under the Election Finances Act, they are required to file and they are required to meet on an equivalent basis the standards and the tests all candidates from the three big parties must meet. Indeed, when some of these parties do file, you discover that perhaps their expenses are in the \$200 to \$1,000 range, but in my view there is a legitimacy there.

There are other candidates. We all know about John Turmel, who I believe runs in virtually every federal and provincial election, who meets all of the requirements of being a candidate and has a right in a democratic system, it seems to me, to put himself forward to be judged. To discourage, by limiting his ability to participate, someone who has a point of view he wants to be gauged by his fellow citizens seems to me something that cannot be supported.

Mr. Chairman: Mr. Sterling put forward the suggestion of \$2,000. I get the impression that there is not unanimous support for that. Do members want to stay with the \$200 or would they be interested in having some amount higher than that? The point was made yesterday that the \$200 has been there for many, many years.

Mr. Sterling: That is not true. It has been there only since 1984.

Mr. Morin: What was before that?

Mr. Sterling: There was nothing before.

Mr. Stewart: That is true, Mr. Chairman. I might just mention to Mr. Sterling that I was going to make it clear that actually I misinformed the committee yesterday by saying the deposit had been around a long, long time. It has of course at the federal level, but it was first instituted in the province in 1984. At the suggestion of Mr. Campbell, I consulted with the chief election officer after the meeting yesterday. His feeling is that this is a philosophical question that is really up to the elected members to decide. We wish to point out that in 1984 the initial feeling was that a higher deposit would be created but then, when the other jurisdictions in Canada were examined and it was found that none had higher than \$200, \$200 was accepted as a figure.

Mr. Chairman: I am at your mercy.

Mr. Sterling: I think we should just go on to the next subject.

Mr. Chairman: Leave it at that?

Mr. Sterling: Obviously Mr. Matrondola and I both feel strongly, but I do not think anybody else is basically supporting this.

Mr. Breaugh: At least he is not cheap about it.

Mr. Sterling: Thanks, Mike.

Mr. Matrundola: I do not believe that anyone should be precluded from entering the political process or the democratic process, but we are not asking for \$20,000. I have also seen some countries—my former country, for example—where they have probably 50 or 60 different parties. It becomes a zoo out there. I believe that anyone who is keenly interested in representing the public—it is not even five per cent of the amount of expenditure that we are allowed during the campaign. If you see in some ridings the amount of money that they spend during the precampaign, it appals me. I would like to see that curbed.

Mr. Chairman: Okay, I get the impression that the general consensus is to stay with the \$200, the 10 per cent. Unless there is a motion, we will go on to the next item.

Mr. Matrundola: Is there perhaps a way to work somewhere in between the \$200 and the \$2,000?

Mr. Chairman: There is a way. All you have to do is put a motion in and we will put the motion to the members. If the members accept the motion, then it is in as far as the recommendation is concerned.

Mr. Sterling: I suggest, Mr. Matrundola, that there is not any support for increasing it at this time and therefore we are just wasting the time of the committee to pursue the matter further.

Mr. Matrundola: Okay.

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Mr. Chairman: Mr. Sterling, is there another matter that you want to discuss before you leave? I just wanted to accommodate you on this before you left.

Mr. Sterling: No, that is it.

Mr. Campbell: May I suggest then, if that is the case, that we move back to the suggestion that I made earlier about getting to the residency requirement that was passed out? I wonder if there are extra copies, because there are other members of the committee who were not present yesterday and may not have the proposed situation.

Mr. Stewart: I have a few comments, just as Mr. Sterling is going to leave. There were two areas in which wording changes had been requested for examination concerning, first of all, the requirement that the returning officer consult the federal electoral returning officers in any electoral district with a common area, and also that in the case of the appointment of revising agents, a returning officer should be required to send revising agents when any person notifies the returning officer that an area, section or a building containing multiple dwelling units had been missed. I have those wordings. I am not sure it is important.

Mr. Sterling: I have to go. The committee knows my feeling on it so, as usual, I will be reasonable.

Mr. Campbell: As always. Well, "usual" is appropriate.

Interjections.

Mr. Chairman: Do you want to distribute those, Mr. Stewart? Do you want to address the committee regarding the amendments that you are proposing?

Mr. Stewart: Is this the alternative wordings, before we go to residence? Is that the sheet that just—

Mr. Campbell: No, we are dealing with residence, I think. That was the suggestion.

Mr. Chairman: Do we have something on residence?

Mr. Stewart: Yes.

Mr. Chairman: Do you want to distribute that first, then?

Mr. Stewart: That was distributed yesterday, and I just have a few extra copies for the members who were not here which have now been given out.

Miss Roberts: Is that the two section 1 amendments I have just received?

Mr. Campbell: It is headed "Section 1(1)(o)—Residence." That is the one we are looking for. I thought you had it there.

Mr. Chairman: Have you got an extra copy?

Mr. Stewart: Yes. I have one.

Mr. Chairman: I think that must have been distributed the day I came late and I never ended up with a copy of that.

Mr. Campbell: It is quite possible, Mr. Chairman.

Mr. Chairman: Would you proceed, Mr. Stewart, please? By the way, I want to remind members we will go until 12 o'clock and reconvene at 2 o'clock.

Mr. Stewart: For the benefit of members who were not present, this discussion began when the committee was considering the very first proposed change by the chief election officer to add to rules of residence. The chief election officer had proposed that a rule of residence be included to clarify the fact that a person who ceases to reside in Ontario by reason of absence therefrom while engaged in the service of the crown in right of Ontario or of Canada should still continue to be considered a resident of Ontario for voting purposes.

In the discussion of the committee, I believe it was Mr. Campbell who suggested, and other members agreed, that it is not fair to make such a provision that applies only to public servants, to servants of the crown, that whatever rule was added should apply to everyone in the private or public sector. I was asked to consult Mr. Yeager to come up with some form of alternative wording.

The first paragraph on the page, with the number 5 before it, was an attempt to do that. It says:

"5. No person ceases to reside in Ontario by reason of temporary absence therefrom, for a definite or indefinite period, if he intends to return to Ontario at the end of the period of absence."

This is not really a difficult problem to solve, because many statutes in other jurisdictions address this problem one way or another, so wording and concepts are there.

I am not sure, in retrospect, whether the committee wished to provide that a person may continue to consider himself a resident of Ontario even if he is absent from the province for 20 years, whether he intends to return or not. I guess that is a question that is open to you. Various other provinces have all sorts of provisions on this subject. In Quebec, the proposal is that once you are gone for more than 10 years, you are no longer a resident. Other provinces have provisions as short as, I believe, six months.

Mr. Chairman: I know that is really open-ended. I am not sure I am comfortable with that. Just before Mr. Campbell speaks, I know of people who have come over here from other countries and have stayed here for 10, 20 or 30 years and never take out a Canadian citizenship. I am just wondering if you reversed that, whether you might say, "Well, I always intended to go back." Whenever it is convenient they say, "I intended to go back." When it is not convenient they say, "I intended to stay." It is something we should look at.

Mr. Campbell: Dealing with the section here, given the procedure that we are using at this point in time, that we do not have a bill before us, this is merely trying to deal in an appropriate way with the report from the chief electoral officer, even though we will debate later which form this is going to take—either the report or the proposed amendments via the route that we did earlier on another matter dealing with the Legislative Assembly. I just wanted to clarify that for some members who may not have been here.

I think it was the understanding that when you came back with a definition of residency, that the chief electoral officer, prescribing rules at this point in time, would bring them back to this committee for our perusal, but that the general thrust would be that we would look at giving the chief electoral officer that duty of defining the rules so that this committee could at least debate something along those lines. I understand that that was the way this was going.

You recall, I think it was Tuesday, when the chief electoral officer quoted some law about some states in the United States which are using some precedents in English law or the common use of English law, rather than the Napoleonic codes of California or Louisiana that could have some bearing on how you define residency for the purposes of our debate now.

I think that if we were to say at this point in time that this is something we would look at as a committee and then define how those rules would be made, it would still be the duty of this committee to recommend to the Legislature that, in fact, these rules are the ones we recommend. I realize that this section 6 is open-ended, but at least it gets us along the path of working within the residency requirements or lack thereof.

Mr. Matrundola: I have some concerns, too. Yet I understand what Mr. Baillie was saying the other day about this case of the gentleman in England and so forth, but it is sort of open-ended.

I was wondering if we could put a reasonable cap on this. Perhaps, just

for consideration, a person should have to have resided at least six months of the last three years preceding the election in Ontario. In other words, if, three years prior to the election, the person has been mostly out, but has been in Ontario for six months, whether continuously or has been coming back and forth, it does not make any difference. A person who has been out of the province for over three years, unless it is perhaps in a diplomatic post or otherwise, has sort of lost touch with the issues and so forth.

One of the reasons people go to vote, I would say, is that they like to be reasonably well informed. If somebody has been out for 10 years, comes on election day, votes and goes out again, would they really know enough? If they are involved in some sort of diplomatic post or other parallel sort of posting or whatever, then they would have at least an understanding and be informed and so forth.

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Mr. Chairman: One of the things that might help you with this is that if you have students who went to, for instance, university in British Columbia, Alberta or some place and they are away for eight months per term, then they would not be able to vote in the province if they went away for a temporary absence. I am not saying they should vote. I am just saying it is one of the things you might want to consider.

Mr. Breaugh: I support the recommendation that is before us now. I think it should be as broad as possible. I think any restrictions you might think of do not survive the test of whether they are fair or not. It is not our job to decide whether a voter out there is casting his ballot wisely. It is not our job to decide that it is mandatory that they know what is happening in Ontario.

My daughter went to school in Texas for four years. I think she kept in fairly good contact with what is happening in Ontario. There are a lot of young people who are away at school in different places in different parts of the world; they do not lose contact at all with the community.

It is not our intention, I hope, to say that people who work out of this province for a lengthy period of time are deprived of their vote. I think they all have a right to vote if they want to exercise it. I am not about to sit down and say: "This is a wise ballot. This one isn't. This is an informed person and this one isn't." That is not my job at all.

I think this definition provides us with something that is fair and workable, because the purpose of the exercise is not to deny somebody the vote because he happens to be working somewhere else in Canada, around the world, off to school for a while or visiting or whatever. We have laid out what the qualifications are to have a vote in Ontario, and that is a fair thing for us to do, I think. Now we are simply dealing with the matter of whether or not they were living inside the province at the time when a general election is called. Any restrictions we put on that, it seems to me, are silly and arbitrary. The purpose of the exercise is to identify who is an eligible voter, and that is it. We have done that. The residency requirement, in my view, should be worded in a manner such as is now before us.

Mr. Chairman: Do you have a supplementary, Mr. Morin?

Mr. Morin: What you are saying, Mike, then, is that it would be left up to the discretion of the chief election officer to determine?

Mr. Breaugh: Yes.

Mr. Morin: Okay.

Mr. J. M. Johnson: Supplementary. I agree with Mike.

Mrs. Sullivan: I apologize, because this was covered yesterday, but I would like to know how British Columbia handles the actual voting practice. Do they use a mail ballot?

Mr. Stewart: It is not by proxy. It is ballot by mail.

Mrs. Sullivan: It is a mail ballot. What is their practice in terms of informing people who are outside the country?

Mr. Stewart: That I do not know. But from the most recent discussions with the Conference of Canadian Election Officials, I think the general practice is that there is a limited amount you can do to inform people of their right; you really do not know where they are. So there is the legal right, but it is very difficult to systematically go about finding people from British Columbia all over the world or in other parts of Canada. I do not know of any systematic program.

Mrs. Sullivan: What is British Columbia's practice in terms of determining the selection of the electoral district the person who is voting makes?

Mr. Stewart: May I find my BC act and refer to that and get back to you some time this morning?

Mrs. Sullivan: Sure. I just wondered whether it was the last place in Ontario that the person lived, or is it the place they are going to come back to? How is that choice made?

Mr. Chairman: Mr. Yeager has some information on other jurisdictions, so he might just be able to give you some other options.

Mrs. Sullivan: Okay.

Mr. Yeager: I can provide a bit of information on how something similar is done in France for its national elections for people living abroad. My wife is also a French citizen. She is bombarded by political stuff from France. She votes at the embassy here at the national level. They do not have a provincial equivalent. For municipal elections, she is still eligible to vote, but it is up to her to have arranged a permanent proxy in her home town—a relative, whomever—so that he may vote on her instructions. It is left up to the individual. She does not receive any literature, advice or notices of any sort from home for the municipal level, and that is the equivalent of the provincial here.

Mrs. Sullivan: You see, I am asking these question because I think if we accept a broader interpretation of resident and out of province resident and eligibility to vote, we will probably have to consider making other changes in terms of additions to the act relating to the implementation of that requirement. They cannot be isolated in the definition, and then not have a follow-up elsewhere in the act.

Mrs. Stoner: Following that, the whole question of the enumeration

and which area they would be eligible to vote in is one pertinent point. The other one, to me, is: If somebody votes provincially in Ontario while residing in British Columbia, is he then eligible or ineligible to vote in a provincial election in British Columbia? Do you choose one province, or are you able to vote in two or more?

Mr. Stewart: There are, undoubtedly, anomalies. There are situations in general where it is possible that you may be eligible to vote in two provinces at the same time, or none, because of inconsistencies among the various provincial acts. I am not sure it would create a difficulty in this case or in theory, in that residence would be a composite of acts and intention. A person should believe himself to be either a resident of British Columbia at the time or a resident of Ontario who is just temporarily away from Ontario.

Mrs. Stoner: How do you write that, or do you?

Mr. Matrundola: I am a bit confused here. Come the election, are we going to allow people who are for some reason out of the province or the country for a number of years to mail their ballots here? Is that what we are trying to do?

Mr. Stewart: No, they would vote by proxy. That is also the answer to the question about other changes to the act. In previous discussions, the eligibility for proxy voting would be broadened so that it would cover people who were made eligible by this new rule.

Mr. Matrundola: In other words, if somebody, say, is in Lahr or Italy, Japan or wherever, a person here can mail him a proxy. He is going to sign it over there and mail it back here, and Mr. and Mrs. So-and-so will come and cast a ballot.

Mr. Stewart: If the person is a resident of Ontario who is temporarily away, that is the idea.

Mr. Matrundola: That is the way it goes. I would be of the opinion that to be able to vote in Ontario, either on election day or at one of the advance polls, the person at least should be present here in Ontario. To vote, if he is not physically in Ontario during that period, does not seem—On this business of proxies, yes, for people who are here, who are in the hospital, one thing or another; for some special reason, they cannot go and vote. But if you start getting this mailing out of proxy—We will see when the proxy is here and so forth. I do not know about that.

If I can just supplement to Mr. Breaugh one minute, when we were discussing the other thing before, his daughter was in Texas for four years. I believe that in four years she came back more than once for vacation or otherwise. She was not continuously out of the country for four years. Right?

Mr. Breaugh: Right.

Mr. Matrundola: Well, there you go. That is the point I was trying to make before, that within three years, the person is in Ontario six months or three months at any time. Because if a person is out and comes back for a vacation or whatever, and then goes away and comes back, that is one thing. But if a person is permanently out for three, four, five or six years, that was the point I was trying to make, and there is a difference there.

Mr. Chairman: I have one or two people and then we will recess and come back at 2 p.m.

Miss Roberts: I will be very brief. I agree with Mr. Breaugh. I think we should make it as broad as we possibly can. I think this will help us. I hope it is going to help us for those people who are going to be going on vacation. They will be able to make the appropriate arrangements to vote by proxy so they can go on their vacation.

I think this is just excellent. I think Barb has brought up things that we have to consider and make sure we make appropriate throughout the entire act; that it is consistent. But it certainly will make it very much easier, especially if we are going to be dealing with people who are just out of the province for a brief period or for extended periods.

I think one thing we should do is link up with the government of Canada as well, so that once we make our changes we can say to the person who is moving to Iran to work there for three years, "If you wish to vote in an election, you must do this, this and this in Ontario," so that when he leaves things are done in an appropriate manner and he will know what he can do; put the onus on him, not on the election officer to search him out.

Mr. Chairman: Okay. There seems to be general support for this, Mr. Stewart. Unless anybody has any other suggestions or amendments, we will accept this as it is.

Miss Roberts: That is 5, not 6.

Mr. Chairman: No, 5; we have only discussed 5. We will adjourn for lunch and come back at two o'clock. Is there any reason why we should not be able to finish this by about four o'clock or 4:30 this afternoon?

Miss Roberts: Well, you can finish without me if you go past that.

Mr. Chairman: That might even go faster.

Miss Roberts: It might go faster than that.

Mr. Chairman: Okay. We are adjourned until two o'clock.

The committee adjourned at 12:01 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY
REVIEW OF ELECTION LAWS AND PROCESS
THURSDAY, APRIL 13, 1989
Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Epp, Herbert A. (Waterloo North L)
VICE-CHAIRMAN: Campbell, Sterling (Sudbury L)
Breaugh, Michael J. (Oshawa NDP)
Hampton, Howard (Rainy River NDP)
Johnson, Jack (Wellington PC)
Matrondola, Gino (Willowdale L)
McClelland, Carman (Brampton North L)
Morin, Gilles E. (Carleton East L)
Sterling, Norman W. (Carleton PC)
Stoner, Norah (Durham West L)
Sullivan, Barbara (Halton Centre L)

Substitution:

Roberts, Marietta L. D. (Elgin L) for Mr. McClelland

Clerk: Forsyth, Smirle

Staff:

Yeager, Lewis, Research Officer, Legislative Research Service

Witnesses:

From the Office of the Chief Election Officer:

Stewart, Alan, Special Adviser (Legal)
Baillie, Warren R., Chief Election Officer

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, April 13, 1989

The committee resumed at 14:14 p.m. in committee room 228.

REVIEW OF ELECTION LAWS AND PROCESS
(continued)

Mr. Chairman: The standing committee on the Legislative Assembly will come to order. You will recall that we dealt with paragraph 5 of clause 1(1)(o) regarding residence. We should now deal with paragraph 6.

Mr. Campbell: Mr. Chairman, for clarification.

Mr. Chairman: Yes.

Mr. Campbell: I have had an opportunity over lunch to sort of go over this and what the intent was. I think it was decided that we would ask the head honcho to come back to us with suggested ways of dealing with that, and not as a proposed amendment. I think we are going to have some difficulty, because it should be this committee that should at least debate what those proposed changes might be on recommendation. I am a little reluctant to just say in paragraph 6, the way it reads, that we give this power, without debating it and having all members have a full opportunity to debate paragraph 6.

I would ask, if we can, that we approve paragraph 5, and again recognizing that these are recommendations at this point in time and not a clause-by-clause study, we still have time that the chief electoral officer could come back with his comments, at least. If he is going to administer it, I think he should have some say in how it is worded and formulated.

I am wondering if we could table this paragraph 6 until such time as the chief electoral officer can in fact report back to us. Because he has not been present in any of this situation, I feel a little uncomfortable in just providing that without his comments. I would ask committee concurrence in that.

Mr. Chairman: We are dealing here with paragraph 6, a person not having a fixed address. Is that correct?

Mr. Campbell: The rules and regulations I think are more and more important. I think the committee buys the concept of how we are going to do it, but I think this committee should have a look at what would be proposed rather than just saying, "You have this duty now."

Mr. Chairman: We have passed it all over to him. You want a further explanation as to the parameters under which he is going to operate.

Mr. Campbell: In fairness, he has not been present for this and we are giving him something that I think he should have some say in as to how he would do it, giving this committee an idea.

Mr. Stewart: If I might, I certainly understand that idea. I should make it clear that this section was drawn in consultation with Mr. Yeager as a result of a request that some wording be provided.

Mr. Campbell: That is right.

Mr. Stewart: I would have pointed out that it provides a tremendous amount of administrative discretion to the chief election officer, which may be unacceptable. The only problem in asking the chief election officer to draw up a proposal is that he has been in the same position as the members this week; that is, of wanting to hear the representations on the subject of the homeless by Mr. Shapcott and Marnie Hayes to decide what is workable, because it is a very difficult question.

I think he might like to have any observations by the committee in principle about the various forms of homeless voting that have been suggested. For example, is it acceptable to the committee that a homeless person should be enumerated at the address of a community centre? Should he just be able to claim that address or should some employee or director of the community centre verify that the person stores his belongings or receives his mail there? What about the homeless who do not wish to be enumerated at a community centre or who are in an area where there is no community centre that provides these services? May they just state a general location as to their habitation, without a specific numbered address, etc.?

Mr. Chairman: If members agree, we could defer this to another time.

Mr. Breaugh: The part that I do not have any problem with is to bring this back and look perhaps at different wording at some later time. There is a little thing in here which is signalling to me that something needs to be done a little differently.

I do not argue with the notion that, in the law, we put it as broadly as we can, but when I do that, I recognize that the actual implementation of the law will be carried out by someone who is not elected, and perhaps in a way that none of us ever get a chance to even look at. The method in Ontario, for example, of examining regulations or rules after a law is written is imperfect, to be polite.

Miss Roberts: It is nonexistent.

Mr. Breaugh: Nonexistent.

I do not argue with the notion that we just have to do some of that, but I am mindful that we have made some suggestions here in a number of ways which will substantively alter the way that people cast their ballots. We talked a great deal about changing what the ballot itself looks like, the use of logos and things of that nature. I wonder if members of the committee are convinced of the idea that it would be useful to kind of look at or work with the chief elections officer in terms of developing these things since we are kind of breaking new ground here.

For example, on this one I am an advocate of basically changing the law much as is suggested here, but I am also mindful, as I do that, that if there is some returning officer out there who wants to play games with this, we could get ourselves into a real jackpot. I am going to be asking the chief electoral officer to draft some rules that we can look at and to provide us with an occasion when we can have some discussion about that to see whether or not we think this is a sensible thing to do.

The difficulty I am struggling with is simply this. We have heard a couple of representations here which say, "Use community centres, as Toronto

did." In many communities, that is quite a viable thing to do, but in many other communities there are no such animals at all. They are nonexistent. We may be able to replace those with a church, a post office, a library, a high school, a number of other places in a community where the homeless might have some contact; someone there would know them. They might go to that centre once a week for food or they might go there for counselling or for shelter. There may be a number of other places, so you could write a set of regulations or directions to local returning officers which say something like: "Establish the places in your community where the homeless would gather or would have some contact. Find someone there who could verify that, 'Yes, that's a person I know.'" I guess in essence you would enumerate them at that church or school or whatever it might be. I mean, there are some practical things that have to be kind of worked out here.

1420

If it is the intention of the committee to ask Mr. Bailie to draft another amendment, I have no problem with that. I think, though, on a number of fronts we should continue the practice of having the elections office come before the committee on a regular basis to try things on for size to see what is acceptable and what is not and what members are thinking about.

I really do not want the final say in all of this to be in the hands of this committee, but I do think it would be useful for Mr. Bailie and his staff to kind of work with the committee on a little more regular basis than we have done in the past to try to work our way through this, because on this and on the other matter of changing the ballot, at some point in time some bright light in my party is going to suggest that they can come up with a logo that will change somebody's mind as soon as they see it. We have people in the NDP who will actually believe that, and so do you. None of us escapes that. There are others among us who would say, "That's a really stupid idea; don't do that." To avoid a bitter confrontation that it is the party's unilingual right to advertise on the ballot, which it is not, I think we need to have an ongoing relationship on this.

Perhaps the best thing is to just kind of set it aside for now and have Mr. Bailie come back at a subsequent date with either new sets of words or these words and a set of rules that we can see. Either way would be acceptable to me.

Mr. Campbell: There seem to be two areas we were looking at, and Mr. Breagh has alluded to both of them, I think, the sample ballot, the ballot situation, and this definition of homeless. If we could perhaps deal with where this committee would like to go on this, I think we might have solved number 6 already and I might respectfully suggest that we move to the ballots, since that seems to be the only other sort of outstanding thing they are looking for direction on from this committee, and perhaps deal with the rest of them, enter into the debate on how we would enter into the reform this is going to take, whether by report or whatever other method we are going to do. Then I think there is general concurrence in the committee to deal with all of the other situations that we dealt with through the week and perhaps then say that is our report and go ahead with it and enter into that, if that is acceptable, Mr. Chairman.

Mr. Chairman: One of the things that has not been dealt with, or I did not think we had finalized yesterday, was the close of nominations. We were tinkering with that and we should further discuss that point before we go on to the section on ballots, section 34.

Mr. J. M. Johnson: We can also do the advance polls.

Mr. Chairman: And also the advance polls, right. We have not finished with that yellow sheet that was distributed.

Mr. Campbell: No, I was—sorry.

Mr. Chairman: I got the impression you felt we should go to section 34, deal with ballots and that would be it for today. Maybe I misunderstood you.

Mr. Campbell: I think we were asking the chief election officer to come back with his concerns, and since he is not here today, I do not suspect that we can come to a resolution since we did not yesterday, because in the absence of the chief electoral officer, with his experience and expertise and so on, he may have very valid reasons why we cannot change the nomination, but we could add—again, I would feel more comfortable if we were here and if we got the concurrence to deal with that again, as well as number 6, on the ongoing process.

Mr. J. M. Johnson: Mr. Stewart has talked to the chief election officer on that point.

Mr. Campbell: Oh, he has? Then I stand corrected. That would be another item then. Thank you.

Mrs. Sullivan: Just in relation to paragraph 6 here, I do not like the approach that this amendment takes. While the issue is one that is substantially new in this and other jurisdictions, it is one that we have to explore far more seriously in this committee and over a lengthier period of time before we put forward any kind of recommendation, including this one, which I do not happen to like. If we can scoot on now—

Mr. Chairman: Speak with the angels, hear the wings flutter.

Mr. J. M. Johnson: Speak of the devil.

Mrs. Sullivan: Perhaps we can move on now to the other sections and perhaps come to terms in a really detailed way with the questions that are raised by this homeless voter issue. I do not think this is an appropriate response.

Mr. Chairman: Mr. Bailie, I know you do not have the benefit of the discussion here of the last few minutes, but members are not really happy with paragraph 6, as Mr. Stewart is just indicating to you, and were thinking that maybe you need more time to reword that.

Mr. Stewart: In fact, this was done by myself and Mr. Yeager, and I certainly would have no problem considering it withdrawn. The idea was that in the initial discussion in the committee, it was indicated that while the homeless should be voting, and that is pretty obvious, it was just a matter of finding the wording. Obviously, it is going to be more complicated than that, so perhaps the recommendation in paragraph 6 should simply be removed, with the understanding that it is going to be discussed further in the future.

Mr. Chairman: I know Mr. Breaugh and Ms. Roberts want to discuss this, but I know from my own reading of this that it is a little too loose, as far as I am concerned. There is too much latitude there, and we need to

tighten it up.

Mr. Breagh: I was going to suggest a way to proceed. I have not heard any difficulty with any of the other proposed changes to the act as we went through them, so I consider those to be a given, unless there is a wording change here or there. I do not see us needing to go back through each and every one of those proposed amendments. I think we need to do it one more time and have a formal vote on that. We need to determine how we are going to proceed, by means of a report or proposing a bill. I think we should discuss that. We have a little more work to do on the ballot and Mr. Johnson's proposal for an additional day of advance polling and things like that, and I think we should go through those things this afternoon.

I would like to have Mr. Bailie back on one other occasion, when he addresses the concerns that have been raised this afternoon about the proposed wording in what would be called paragraph 6. I think he and his staff will have a little better gist of it.

I would say the basic problem is that we are not real happy with the notion that the chief election officer shall prescribe the rules without our having a chance to see what the rules might be. So, it would be a rewording of that or something similar to this left as the wording but we would see the rules, one of those two combinations.

I really think we only have about two or three decisions to make this afternoon, but then, for practical purposes as well, I would like some chance to consult with some other folks before we decide how we will proceed from here, as a report or a proposed bill or whatever. I suspect there are a few of us who would like a chance to take a look at some of these wording changes as well.

Mr. Chairman: Mr. Yeager has a comment. Then I will hear Miss Roberts and Mr. Johnson.

Mr. Yeager: This just relates to exactly what Mr. Breagh is suggesting. When Mr. Stewart and I were working on this the other evening, he indicated very clearly that they would like some draft principles for these rules from the committee and other information sources. I think there was every intention that the thrust for what the rules would say would come from here, rather than being arbitrarily set out.

Mr. Breagh: Okay.

Miss Roberts: I just want to reiterate what Mr. Breagh has said. If we are going to touch the homeless situation and deal with it in some way, we will need further information and maybe stronger consultations. I do not think we can leave it up to the chief electoral officer. It is too much weight on his shoulders, when the responsibility, in the long run, is ours and it really is very important to each person who might wish to run in that particular riding.

For my part, what I would like to do this afternoon is be as brief as we possibly can, because I know there are some of us who wish to leave as quickly as we can. But I am very concerned that we do not look at this question of the homeless too briefly. We should take some time with it and do some background of our own, because in my particular area, as Mr. Breagh said, a community centre is just nonexistent. On the number of homeless, I could sort of advise you and tell you where they live, where they sleep. So it is a completely

different situation in areas outside large metropolitan regions. I think there is a lot more homework that we as members have to do, let alone see proposals that are brought in by the chief election officer.

1430

Mr. Chairman: I guess related to that is also the issue where residents do not give their address, refuse to give their address and so forth, how that could be dealt with: if they do not have an address to give or refuse to give it.

Miss Roberts: If we set up some of the things I heard about on Tuesday, people may wish to use them instead of using the appropriate method of putting their name on a list. We have to be sure that it is a last resort and not one that is just an easy way out for someone who does not want to give his residence. We have to be ever alert to that fact.

Mr. J. M. Johnson: Just as a suggestion, it would be helpful to me if Mr. Bailie and company could provide us some time in the near future with another draft of proposed amendments to the Election Act based on our conversation of the last few days and also on what we will finalize if possible today. They could maybe suggest two, three or four proposals on the sections such as those we have just talked about and cannot come to an agreement on; that would help us resolve that. If we had that prior to a meeting, we would be able to discuss it with some of the other people who are not in attendance who may wish to comment. We would then be in a better position to finalize that at our next meeting.

Miss Roberts: I think Mr. Breagh mentioned that we were looking at whether it would be a report or a bill or something coming out of this.

Mr. Chairman: Yes, we will discuss that later.

Okay, let's go on. We will defer paragraph 1(1)(o)6 then, and the returning officer can come back with some other thoughts and suggestions on it.

Let's go to section 34. Before we go to 34, I think I want to do 27.

Mr. Breagh: I thought we did that all morning and decided to leave it as it is.

Mr. Campbell: That's right.

Mr. Breagh: Unless we want to have the argument for a third time.

Mr. Campbell: The closing of nominations.

Mr. Chairman: Not the the closing of the nominations.

Mr. Campbell: Oh, I am sorry. I thought you said 27. You are dealing with the advance poll issue and the close of nominations?

Mr. Chairman: Subsection 27(10), I think it is.

Mr. Breagh: I only have one notation on that, of a change from seven days to 10 days. I have no problem with that.

Mr. Chairman: I thought we were talking yesterday about close of

nominations, that rather than having it on day 14 we would have it on day 16.

Mr. Campbell: I think it was related, if I can be of help, to the third proposed riding advance poll outside of the office.

Mr. Chairman: Yes, but we were talking about having it on day 19.

Mr. Campbell: I think the technical problem was that we were looking at day 19, and so to do we would have to move the nomination date, if I am correct.

Mr. J. M. Johnson: I did discuss this with Mr. Stewart and I understand the close of nominations could occur on the 17th day. If that were the case, then I would suggest that we have the first advance poll on the 12th day. That could be the Saturday 10 days prior to that. So the close of the nominations on the 17th day and the advance poll on the 12th day would not create any problems for Mr. Bailie's people to make sure the ballots were fair.

Mr. Bailie: Yes, that is no problem.

Mr. J. M. Johnson: It is just a suggestion. I would like Mr. Bailie to comment.

Mr. Bailie: I did discuss this at length with my staff last night on the phone. If it were the desire of the committee to recommend that nomination day be moved to Monday, day 17, it would allow us to have an area advance poll. That means that in each electoral district we would have two, three or four locations where there would be a poll open. It would also allow the suggestion of Mr. Breaugh's that there be additional days in the returning office for an advance poll. We could add, as it were, at least two more days in the returning office, such as days 14 and 13. There would be two additional days.

Mr. Campbell: Seeing no problem from the returning officer, that would be agreeable.

Mr. Chairman: I just want to be absolutely clear on this, Mr. Bailie. You would move closing the nominations to day 17.

Mr. Bailie: Right.

Mr. Chairman: Then you would add an area advance poll to day 12?

Mr. Bailie: Yes, day 12.

Mr. Chairman: And day—

Mr. Bailie: Days 14 and day 13 would be an advance poll in the office of the returning office.

Mr. Chairman: Okay, days 14 and 13 would be the returning office and then day 12 would be an area poll.

Mr. Bailie: Right. It would be both, as it were.

Mr. J. M. Johnson: The same with day 5 and day 3 as area advance polls.

Mr. Bailie: Right.

Mr. Chairman: This is in addition.

Mr. Matrundola: I was just wondering if perhaps it was any more convenient to move it to day 20 to close the nomination. It would give you ample time for doing all the other things you need to do.

Mr. Breaugh: No. It would cause problems in parties. With the mechanics of renting a hall in a snap election, that weekend becomes critical, I would think.

Miss Roberts: That was my concern. What are the downsides, or do you see any downsides if we move it from 14 to 17? Is there anything you see that might be at all negative?

Mr. Bailie: The last time we discussed this, in 1984, we had a proposal that it be Monday. The parties at that time said—or one of them in particular said—that they had trouble getting nominations settled. It is my feeling that no matter when you have a cutoff, you have that problem on that day. I did not think it would make that much difference.

It would assist us greatly, especially if there is going to be any thought given to additional items on the ballot. We have a very straightforward ballot now, which is the only way we can have voting just in effect a day and a half after nominations close. If we add things to the ballot, even what may appear to be simple things like the party affiliation, you must appreciate that we are going to have to have some mechanism for the party leader to approve who is the candidate so we do not have a situation like in Yorkview, where we have two candidates.

We need those days, and I guess the downside of it is that the parties have four days less to get their candidates settled.

Miss Roberts: That does not strike me as a problem, but I just wondered if you had any problems with it.

Mr. Bailie: No.

Miss Roberts: It is very helpful to you.

Mr. Bailie: The one feature is that it might reduce the number of nuisance candidates the more time they have to think of getting involved and collecting up the \$200. That is my feeling about it.

Miss Roberts: Sounds good to me.

Mr. Matrundola: The Monday will be the last day people can file the official nomination papers. Can they also be filed, say, on the Sunday or the Saturday, the office being closed? They are being filed with the returning officer anyway. So the Sunday, in this case, would be also open for filing or not?

Mr. Breaugh: You are determined to make everybody work on Sunday.

Mr. Bailie: For the nomination papers we would probably, subject to your approval, continue the wording that is in the present act. It would say that nominations close on that day at 2 p.m. but that nomination papers could be filed on the seven days preceding.

I had not thought of the office being open on Sunday. Some of them are actually in fact there working, but you would certainly have the six days of the week prior to file them.

1400

Mr. Matrundola: I was just wondering about the technicalities; if somebody went to a returning officer's office on Sunday and filed a paper, whether it would be valid or not.

Mr. Chairman: If we are going to get into the Sunday aspect, I think that is a completely different thing and we probably should address it in a separate area.

Mr. Matrundola: That was the very reason I was saying perhaps it was worth while to move back to the 20th, so they had all the time to do it.

Mr. Chairman: I think, then, seven days prior, and they have the opportunity of bringing those nomination papers in.

We have dealt with that. The next section is section 34 regarding ballots. Here we are talking about the parties, the symbols and so forth. We were not very clear yesterday on exactly what we wanted, Mr. Bailie. We are really looking for some guidance from your office, I guess, as to parties. Is that the symbol? Is that the party? Should it be written out, just say "PC," or should it not be written out? There are various combinations and permutations.

Mr. Bailie: If the party affiliation is on the ballot, I would recommend it be in full, in smaller type and in the bilingual form. That would make it very similar to the federal ballot and most of the other provinces.

Mr. Chairman: Have you a copy of the federal ballot?

Mr. Stewart: Yes, we do.

Mr. Breaugh: On this matter, I really would like to have Mr. Bailie come back to us on another day and show us what other jurisdictions do, what it is possible to do.

Mr. Chairman: Before you hand this out, just hold it for a second.

Mr. Breaugh: I think you can do almost anything you want fairly quickly these days with modern printing mechanisms, but there are some special problems about how ballots get printed, for example, to make sure they are valid. We may have to go through a bit of a study exercise of what is possible.

It would strike me that a political party is not going to have any problem putting its name in English and French on a ballot, nor is he. If we move to the use of symbols, we may have to ask parties to register those symbols much earlier than they would really want. There may be expense involved and it may not be worth it.

Perhaps we could take an hour or so and look at examples of what other jurisdictions have done, what he might propose. Perhaps we could give some thoughts then. We have had the general discussion about party affiliations, symbols, colours and all kinds of other things. I think we should try to be a little more specific the next time so that we, as a committee, will have a reasonable idea of the kinds of things that might be utilized.

Mr. Campbell: If it is the general consensus of the committee that the party identification appear in some form, we are already dealing with one other issue, when I thought Mr. Bailie was not returning. Perhaps this could be added to the list as a second one if that is required.

Keep in mind that I think it was the general consensus throughout the week that the party affiliation be on the ballot. What form that takes, colour, logo, whatever, would be subject to further study. I think we could deal with it; whatever form, Mr. Chairman, you want to take of the general recommendation that party affiliation appear on the ballot and then work it out, if it is still the consensus of the committee that the affiliation appear in whatever form we can technically do.

I just draw to your attention that there were some sample ballots from other provinces and the federal jurisdiction available. I would not want part of the committee to have that material and the other part not to have it. I am wondering if that could be handed out at the same time.

Mr. J. M. Johnson: I just have a brief supplementary. I believe some ballots are available. Why do we not ask that they be handed out, to have some idea of what we are talking about? We can take them home and study them.

Miss Roberts: My name is not on it; it is okay.

Mr. Chairman: We can have them handed out. I just did not want them partially handed out today and then if Mr. Bailie gets additional information, hand that out. I thought it would be nice to put it all together, but if you want the samples they have compiled, we can hand them out now. I do not have any real problem. Do you want to hand them out?

Miss Roberts: If I might while he is doing that, my concern is that I assume that sooner or later in the large metropolitan areas we are going to be looking at electronic voting of some type. Is that so far away that we should not be considering it now?

Mr. Bailie: Would you like me to respond to that?

Mr. Chairman: Yes.

Mr. Bailie: There are not an awful lot of advantages, as I see it, to electronic voting. I have been a deputy returning officer, and we have polls with approximately a turnout of 180 to 200 people. You dump the ballot box on the table and you sort out those ballots. It takes, for the count, perhaps 12, 14 or 15 minutes. If you had electronic voting, you would have that count in probably one minute. To have equipment standing by and owned and stored—

Miss Roberts: It is not in the foreseeable future.

Mr. Bailie: It is not practical.

Miss Roberts: Okay, that is all. That is a good answer for me.

Mr. Chairman: It really destroys the suspense on election night. One minute after eight you have your results: "There it is, folks."

Mrs. Sullivan: I am sorry that I had to be on the other committee last week when the discussion or whatever occurred relating to the inclusion

of the logos on the ballot. My initial reaction is that unless there is a really strong response and will of the committee now, it seems to me we should not have the chief election officer doing all sorts of research and obtaining printing details. I frankly do not like the idea, but if that is a consensus, then that—

Mr. Chairman: You do not like the idea?

Mrs. Cunningham: Of including logos on the ballot.

Mr. Chairman: What about party affiliation?

Mrs. Sullivan: Party affiliation is totally different. I think as well the ballot preparation problems are very different if you are simply including another typed line. If you are including graphics and design work, then you are dealing with a very different printing problem that adds to the length of time and indeed the security problems. Additionally, no party logo that I know of is registered in any kind of way.

Interjection.

Mrs. Sullivan: Sorry, Mr. Breaugh, you have one.

If there is a consensus among the members to say, "Yes, we like the idea," then let's ask Mr. Bailie to proceed in that way, but if there is not that consensus, why should we put him to the work?

Mr. Chairman: I think what was discussed yesterday was that there was a consensus that the party affiliation should be included. Whether that was by PC or NDP or L or whether it was writing out the full name or whether that should be in capital letters or small letters or whatever we had not decided. There was no decision about logos. Some of the problems, such as the registration, that you have raised were raised yesterday. What they wanted to do was get more information on it before any decision was made.

Mr. Campbell: Just to confirm, it was putting a proposed resolution forward more in principle to deal with party affiliation. It did not specifically deal with colour logo or the type format it should take, but merely that it be a recommendation. It was further recommended to come back to this committee with some sort of idea of what was technically possible, what was feasible and what the committee wanted. It was basically the general principle of party affiliation on the ballot. I think that is the question we were generally dealing with. I see other colleagues who are indicating that my perception was correct.

Mr. Chairman: Okay. Mr. Bailie, do you have any difficulty with getting some of that information? What we would have to do is look at what is practical.

1450

Mr. Bailie: On the subject of something additional to party affiliation, Mrs. Sullivan is right. Technically, it would be a much more difficult matter.

In fact, what I had proposed to my staff in our discussions last night was that because I am not sure the equipment is available in all the outlying regions, we would probably quickly pull together a committee of the executive

director of the weekly newspaper association along with the executive director of the graphic arts industries association—it has a new name; now I have forgotten what it is—and someone from the office of the Queen's Printer and very quickly try to get an idea from them, because they receive tenders from all over the province, whether the technology is out there.

Were the committee to proceed with a ballot with symbols, I am not so worried about symbols because they could still be in the colour of the ballot, but once you start talking about colour, we probably would be the first jurisdiction that did not have a stated-time election to have colour on the ballot. In jurisdictions where we know exactly when the election is going to be—unless Mrs. Sullivan could tell me—I would know how many months I would need to prepare for such a ballot.

It would be difficult but we would be glad to show you the proposals and the area of difficulty. One advantage the committee has is that my business for 20 years before becoming assistant chief election officer was forms design and printing.

Mr. Breaugh: Are you hitting us for a consultant's fee?

Mr. Bailie: I have some small knowledge in the area.

Mr. Breaugh: The problem, though, is that if you look at even the samples, if you had a visual problem, if you had difficulty with literacy, simply putting the party affiliation in styles such as we have here in that size of lettering is not going to do much towards helping those people.

Mr. J. M. Johnson: I feel that maybe we should walk before we run and that the first step would be to put the party affiliation on and then maybe for the next election consider colour and logos and things that could create a technical problem. I think the committee is agreed we want to see the party affiliation on it. Let's work towards that.

Mr. Chairman: Does anybody have any problems with Mr. Breaugh's suggestion that the chief election officer get some more information on this? I think the consensus is there about the party affiliation, but is anybody averse to getting additional information before we make a final recommendation?

Mr. Matrondola: The more information we get, the better it is.

Mr. Chairman: That is what we will do then. So that is two areas. Is there any other matter, any other section of the Election Act that we have not discussed that we should discuss today, that is left over? Mr. Stewart, are you aware of anything?

Mr. Stewart: There is one. We did not actually finish the last section in the proposals yesterday. I hate to bring that up at this time.

Mr. Chairman: That is correct. I knew you would come up with something.

Mr. Stewart: It is section 97 dealing with corrupt practices.

Mr. Chairman: That is right, section 97, because we went through everything else.

Mr. Stewart: Yes.

Mr. Chairman: Do you want to discuss that proposal, Mr. Stewart or Mr. Baillie, and go on from there?

Mr. Stewart: Currently, there are provisions governing the disabilities and penalties for corrupt practices in two places in the act. We would like to put them in one. In addition, the current ones are self-contradictory in a way. There are two things you can do wrong in an election, a corrupt practice or an Election Act offence.

Miss Roberts: There is only one: Lose.

Mr. Breagh: "Corrupt" sounds so much better.

Mr. Stewart: A corrupt practice is the more serious of the two offences. It is an anomaly that in the current act a person, upon being convicted of a corrupt practice, can be excused by the judge from the penalty of inability to be a candidate in the future, while at least as far as the wording of the act indicates, a person convicted of a more minor offence cannot be excused and would have to suffer the penalties. We would like to remove that anomaly which could cause some very serious unfairness if not dealt with. The proposed wording would say,

"(1) A person convicted of a corrupt practice or an offence relating to an election is ineligible to stand as a candidate at any election for eight years following the date of the official return."

That is essentially equivalent to the existent subsection 97(1), except that it adds the words "offence relating to an election," which formerly came from subsection 26(5).

Subsection (2) would prescribe, "A person convicted of a corrupt practice is ineligible to hold any office at the nomination of the crown for eight years following the date of the official return." That again is the same penalty found in the current subsection 97(1).

Finally, "If, when a person is convicted of a corrupt practice or of an offence relating to an election, the presiding judge finds that the act constituting in law a corrupt practice was committed without corrupt intent, the person is not subject to the penalties and disabilities provided."

Again, it is essentially the existing subsection 97(2), but making it clear that it applies to a corrupt practice or to the lesser offence of an offence relating to an election. It is a somewhat technical matter, but in view of future potential embarrassment, I think this is an area where it is vital to clear it up one way or another.

Mr. Chairman: What you are saying is you can be found guilty of a corrupt offence, but if the judge then finds that there was no intent, that you did not mean to do it, you therefore can be exempt from those sections.

Mr. Stewart: That is right. You would still be fined perhaps or even jailed, but the judge would say: "I don't think you should have to be ineligible to be a candidate for eight years. We will leave that up to the people."

Mr. Chairman: What happens if you are found guilty at a lower court level, you appeal it and an election comes along?

Mr. Stewart: If you are found guilty at a lower court level and you appeal the decision—

Mr. Chairman: And then there is an election and you run. You say you cannot be a candidate.

Mr. Stewart: I guess that is a good question. I guess that would depend on the technical question of whether—

Mr. Chairman: You have been found guilty and yet you have appealed it, so where are you?

Miss Roberts: You are not guilty if they allow you the appeal. That conviction is set aside.

Mr. Stewart: I believe that so long as the matter is still under appeal, the disabilities and penalties would not finally apply.

Mr. Chairman: You have asked for leave to appeal.

Mr. Stewart: Right.

Miss Roberts: I have a question, reading through this briefly. You are talking about a strict liability versus a mens rea offence basically; correct? You are going to let a judge decide, and/or a jury; I assume you could go that way if you wish; I have not looked at this.

Mr. Stewart: It is a little different from that. It is not creating a strict liability offence. You must have mens rea to commit a corrupt practice.

Miss Roberts: Yes, I understand that, but what is your intent going to be? What legal foundation do you have so a judge says it was without a corrupt intent? "I was just stupid; I was not corrupt"?

Mr. Stewart: There are all sort of 19th-century cases on that because apparently things were a lot wilder in those days.

Miss Roberts: Corrupt.

Mr. Stewart: According to the common law, a corrupt intent within the meaning of this section is an intent to overturn the results of an election or cause the election of a member fraudulently. It is attempted widespread corruption, an attempt to have someone elected who is not actually the choice of the voters.

Mr. Chairman: You are saying that there are enough cases out there, precedents, to support the different kinds of terminology.

Mr. Stewart: There are many.

Miss Roberts: So the difference is, because I do not know anything about it, that you can have the criminal intent and you are guilty as a result

of that and you go to jail, but you did not mean to cause someone to lose the election and therefore you could still run.

Mr. Stewart: Yes, that is exactly right.

Miss Roberts: Just as long as I know that, that sounds good.

Mr. Breaugh: It is called the Richard Nixon defence.

Mrs. Sullivan: Can you tell us how that would have applied in the Nova Scotia situation with the so-called vote buying by liquor gifts? Is that a corrupt practice or is it an election offence?

Mr. Stewart: If I understand it correctly, people were induced, were bribed to vote for someone they would not have voted for.

Miss Roberts: Not necessarily; they were simply given liquor.

Mr. Breaugh: They were just showing their appreciation for your consideration.

Mr. Stewart: Assuming that the bribery provisions of the Criminal Code were contravened, that would be a corrupt practice.

1500

Miss Roberts: So you can have a corrupt practice without having a criminal intent.

Mr. Stewart: That is correct.

Miss Roberts: Okay. That is all very clear, I think. Thank you.

Mr. Chairman: I am not sure whether the muddied waters have been cleared or whether they have been muddied more.

Mr. Campbell: As long as the lawyers understand it.

Mr. Chairman: Mr. Matrundola, I know you are going to throw a little clarity on the process.

Mr. Matrundola: Yes. On the offenders, not necessarily under this section—I do not know under what section it would really come—I am very concerned at election time with destruction of signs and other election material. What section would that be under, Mr. Bailie?

Mr. Bailie: It is not under any section.

Mr. Matrundola: It is not under any section?

Mr. Bailie: Nowhere.

Mr. Matrundola: Perhaps we should create a new section, because it is really the public's money we are spending. It is public domain property, the signs and so forth, because it is done with donated money. That money is tax credited; therefore, it is public money. I believe we should stop this business of vandalism, the total breaking of signs in certain ridings. There

is a little bit of that, not a great deal, but we all know what happens at some elections and I believe we should put a stop to it.

How do we do it? We should work it out, but I certainly would like to see a strong section in the act to that effect because it is really frustrating for people. It is money wasted and it does not reflect the wish of the public when it happens.

Also, people leave letters, advertising pamphlets, whatever the case is, and they flush them away, or they go around cutting the signs, spraying the signs, destroying the signs.

Mr. Chairman: Yes. That is all part of another act. I do not think we should get those two mixed up here.

Mr. Matrundola: Sometimes it might be that it could be caused by the camp of one of the candidates. It might be; whether it has been or not, I do not know and I do not have any evidence, but if that was the case and it was proved—

Mrs. Sullivan: I believe the details Mr. Matrundola is addressing now are not applicable to the Election Act but to other acts.

Mr. Chairman: That is right. It would fall under the Ministry of the Attorney General.

Mrs. Sullivan: That is right. It is a different act.

Miss Roberts: Municipal bylaws as well.

Mr. Chairman: Municipal bylaws and everything else. Thank you, anyway, for raising that point.

I believe we have covered the items we wanted to cover, from sections 1 to 116. There are two outstanding, as you know, that you are going to get more information on. One is paragraph 1(1)(c)6, and the other, of course, is section 44 which deals with ballots.

Members, we have two decisions to make now. One is whether we are going to leave everything until we get that information, which is probably the logical thing to do, and come back as soon as possible, the first meeting we can have after the House comes back in a few weeks. We could be back within three or four weeks—we have to have the committee reappointed, etc.—and then finish off.

The other question facing us is we can decide at that time or decide today whether we want it in the form of an amended bill or a more detailed report that we could submit to the Legislature.

Mr. Campbell: I think the first suggestion is the one I would respectfully suggest. If you want it in motion form that we do that, I would move the motion that we defer further deliberations until those two outstanding amendments or proposals are presented to us. Given the hour, and so that we could have some meaningful debate, I would also suggest that we decide at that time what form this report will take, the form of a report or of an amended bill. I would so move, if you need that; if you do not, it is a suggestion.

Mr. Chairman: Leave it until that time?

Mr. Campbell: Yes.

Mr. Chairman: Thank you. There seems to be consensus on that matter.

Are there any other items members wish to raise pertinent to the operation of this committee? If not, the formal part of the meeting will conclude. I will ask members to stay behind for a few minutes so that we might discuss another matter that should not take any more than five or 10 minutes. With that, this meeting is adjourned.

The committee adjourned at 3:05 p.m.

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